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REPORT OF THE
Royal
Commission on
the Toronto Jail
and Custodial
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REPORT OF THE
Royal Commission
on the Toronto Jail
and Custodial Services

VOLUME 1

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"The Long Road", a painting by Allen G. Foster, reproduced by courtesy of the Prison Arts Foundation, Brantford.

REPORT OF THE
Royal Commission
on the Toronto Jail
and Custodial Services

VOLUME 1

Commissioner:

His Honour Judge B. Barry Shapiro



Queen's Printer for Ontario

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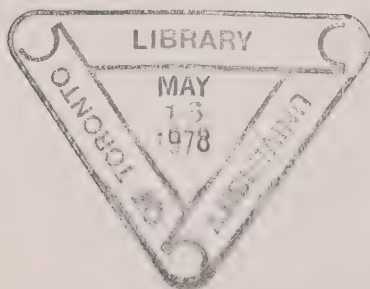
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Acknowledgements

When I was first asked to take on the assignment of this Royal Commission I was advised that it would probably last about eight weeks. Three years later I realized that the estimate of well meaning people had been overly optimistic. Our hearings, and some telescoped travelling, alone lasted more than a year. The balance of the time was taken up in a review of the evidence, necessary research, and the preparation of the report.

If there has been any success in the assignment it is because of the help and assistance of a great number of people, many of whom have spent not just three years in the study of corrections, but virtually whole lifetimes. I wish to name some of these people, and I regret that I cannot name them all. Where there have been omissions, it is not from any lack of gratitude.

I wish to acknowledge the great help of all who were on staff. From the outset, I was fortunate in having the assistance of an experienced and capable executive secretary, Mr. J. William Lidstone, now Assistant Deputy Commissioner of the Ontario Provincial Police. Our staff also included Mr. Robert J. P. Hather, a meticulous and most helpful man who was our registrar, librarian, and at times acting executive secretary, Mrs. Mary Koruna who remained as secretary to the Commission throughout, and Mrs. Carmen Marrier and Mrs. Jenny Stanford, who assisted as secretaries at various times. I thank Commissioner Harold Graham of the O.P.P. for agreeing to let Mr. Lidstone and Mrs. Marrier work with us.

I am indebted to Chief Harold Adamson of the Metropolitan Toronto Police Force and to the chairman of the Metropolitan Toronto Board of Commissioners of Police, His Honour Judge C. O. Bick, as well as to other members of that Board for their kind co-operation in seconding to our Commission the following officers: Staff Sergeant Walter M. Tyrrell, Staff Sergeant Bernard E. Nadeau, Staff Sergeant George W. Crease, Staff Ser-

geant George Crowe, Sergeant Henry Braisby, Sergeant C. Richard Baker, Sergeant George A. Knowles, Sergeant Thomas W. Maguire. In the Introduction, mention is made of the amount of collective time these conscientious gentlemen spent on the investigation of the allegations and on preparing them for presentation by counsel. As investigations were completed, we were able to release these officers for return to their police duties.

The Commission was indeed fortunate in having the investigations supervised and co-ordinated by its legal counsel, Mr. B. Clive Bynoe, Q.C., senior counsel to the Commission and Mr. Nicholson D. McRae, Q.C., associate counsel. In addition to their duties with reference to the investigations, they undertook the presentation of evidence and assisted me in a consultative capacity. Mr. Bynoe also kindly undertook the writing of those supplements in Volume 2 that concern the law and the forms and records in use at the Toronto Jail.

The Commission was fortunate, not only in its own choice of counsel, but also in the quality and courtesy of other counsel who appeared before the Commission, particularly Mr. Robert J. Carter, Q.C., and Mr. John D. Evans, who appeared on behalf of the correctional officers other than Dassy, Bennett, and Torrance; and Mr. Harvey M. Salem, Q.C., who appeared for the most part as lead counsel for Dassy and nurse Jane Mannerholm. A list of all counsel is set out at the end of these acknowledgements. I wish to thank the above-named, and those counsel subsequently listed, for their co-operation and exemplary legal behaviour.

I express appreciation for the co-operation of witnesses who gave evidence at the open hearings. These witnesses were mainly jail administrators, senior officers, line officers, inmates, and ex-inmates. With few exceptions, they freely answered all questions put to them and thus helped us to fulfil the requirements of item 1 of our terms of reference – the allegations. I am particularly grateful to Ministry personnel, jail staff, and inmates who voluntarily appeared at a later date and discussed the matters covered in items 2, 3, and 4 of our terms of reference. This assistance was augmented by those who spent time and thought on the preparation and submission of briefs, which we are pleased to include in Volume 2.

I wish also to express appreciation to the ladies and gentlemen of the news media who so fairly and accurately reported our proceedings. At the suggestion of Mr. Rae Corelli, then of the *Toronto Star*, we permitted tape-recorders to be used, under certain guidelines, for the assistance of the media. We understand that this was the first time that such devices had been allowed at formal hearings. Nothing occurred that caused us to regret our decision in this regard. I trust it will not be considered unfair if mention is also made of those members of the media who were with us in the early days of the hearings and of some who were present during lengthy periods: Mr. Corelli and Miss E. Kaye Fulton, both of the *Toronto Star* (who also permitted counsel to have access to recorded interviews with Dassy and Miss Mannerholm); Mr. Michael Keating, Miss Christie Blatchford, and Miss Sylvia Stead of the *Globe and Mail*; and Mr. Jock Ferguson of the Canadian Broadcasting Corporation.

Counsel and I were appreciative of the assistance of Mr. John Chapman of

Angus, Stonehouse & Co. Ltd., official court reporters, and his staff of men and women who provided daily transcripts of our proceedings.

I also wish to thank the court constables and all other persons at 145 Queen Street West for their friendly help.

In the Introduction, reference is made to assistance afforded to the Commission by persons in other jurisdictions. In this regard I wish to thank many people.

In the province of Quebec, M. Roger Labelle, M. G. Vaugeois, and M. Pierre Moisan, and their staffs were most helpful.

In California, we were assisted by Mr. J. J. Enomoto, Mr. Carlos Sanchez, and Mr. Otis Loggins, all of the California Department of Corrections in Sacramento, and the staffs of San Francisco County Jail, Alameda County Jail, Los Angeles County Jail, San Bernardino County Jail, Riverside County Jail, and the California State Institution for Men at Chino.

I also wish to thank Mr. Richard A. McGee, President of the American Justice Institute, for seeing us while we were in California.

In England, I received great help and courtesy from Sir Leslie Scarman, Lord Justice of Appeal, Sir Geoffrey Howe, Q.C., Dr. Shirley Summerskill, then Parliamentary Under-Secretary of State for Home Affairs, and the following department heads in the Home Office Prison Service: Mr. Colin Honey, Mr. Peter Canovan, Mr. P. Beedle, Mr. D. G. Hewlings, Mr. William Durndle, Mr. W. A. Brister, and Miss Peck. The governors and staffs at the following prisons were most helpful: Feltham (Borstal), Bristol, Pucklechurch, Brixton, Holloway, Coldingley, and Ashford; also the director and staff of the Day Training Centre in London. In addition, I wish to acknowledge the kind assistance of Mr. Stephen West, Mr. E. W. Taylor, Mr. Peter Mason, the Honourable Angus Sinclair, Miss K. Walsh, Mr. W. T. Winder, Mr. John Howarth, and Mr. Louis Blom-Cooper, Q.C.

In Holland, I had the help of Professor W. F. C. van Hattum, Mr. C. van den IJssel, Mr. C. Kelk, and Mr. Eric Besier; and of the directors and staff of the Central Recruitment and Training Centre of the Netherlands Prison Service and the governors and staff of the jail at The Hague and Weteringschans Prison, Amsterdam.

In Denmark, those who kindly assisted us included the late Professor Karl O. Christiansen and Mrs. Christiansen, Mr. Lars Nielsen, Mr. Ole Hansen and the members of the Training and Recruiting School of the Prison System of Denmark at Albertslund, and the governor and staff of the Copenhagen Jail.

We were greatly helped in Sweden by Mr. Bo Martinsson, general director of the Swedish Prison System, Mr. Lars Bolin, Mr. Roland Sandberg, Mr. Lars Chroisty, the governor and staff of the new jail at Stockholm, and Mr. Vincent Nelson.

We also received assistance from people involved with the federal correctional system in Canada, including Miss Inger Hansen, Dr. I. Waller, Mr. R. H. Moncur, Mr. John Moloney, and members of their staffs, and Mr. Jean Côté of the Law Reform Commission of Canada.

In the Ontario correctional system, we had the assistance of Deputy Minister Don Sinclair (now Deputy Minister of Justice), Deputy Minister

G. R. Thompson, Mr. H. Garroway, Mr. H. Hughes, Mr. D. F. Morrison (now a judge of the Provincial Court, Family Division), Mr. C. F. Dombeck, Mrs. H. L. Silverman, Dr. J. J. Hug, Mr. D. W. Kerr, Mr. A. Daniels, Mr. S. A. Nicol, Mr. M. J. Algar, Mr. S. Teggart, Mr. R. E. Fox, Mr. J. deDomenico, Mr. J. L. Main, and the members of their staffs, as well as of Dr. Richard Meen. I am also grateful to other government department heads, including Mr. Brian McLoughlin, Mr. P. W. Clendinneng, and Mr. Rudolf Noll. Further, I wish to thank Chief Douglas Burrows and Deputy Chief William Teggart of the Peel Regional Police for their assistance.

I wish also to thank the superintendents and staffs of the following jails and detention centres which we visited: Brampton Adult Training Centre, Ontario Correctional Institute, Vanier Centre, Maplehurst Correctional Centre, Brampton Jail, Metropolitan Toronto East Detention Centre, Metropolitan Toronto West Detention Centre, Niagara Regional Detention Centre, and Ottawa-Carleton Regional Detention Centre.

We received complete co-operation at all times from Toronto Jail Superintendents William Taylor and Ian Starkie, and the jail staff. Deputy Superintendent Paul Mulhern helped Mr. Bynoe collect jail forms.

I am appreciative of the assistance given to me by Mrs. Marnie Knechtel of the Prison Arts Foundation and by Professors Hans Mohr and Allen Linden of Toronto.

In the United States I received additional assistance from Dr. Donald Deppe, Justice M. Goldberg, Professor Anthony Cooper, and Ms. Carolyn Micklem.

The task of reading and collating voluminous literature was assumed by readers and researchers who assisted the Commission at various times. In this regard I wish to acknowledge the assistance of Mrs. Lois James, Miss Melinda Leal, Mr. Gordon Smith, Mr. Michael Whittingham, Mr. Lorne Richmond, and F. A. Armstrong. Mrs. James was also responsible for the research with reference to the statistical analysis of inmates and correctional officers that appears in Volume 2. She was assisted by Mr. Patrick Madden and Miss Sally Rogers of the Ministry on the programming of data. Miss Leal, Mr. Smith, and Mr. Whittingham also assisted the Commission in consolidating other prepared material into draft form.

I wish particularly to express my appreciation to Mrs. Norma Martin, my secretary at the Peel County Court House, who was on loan to the Commission, for her conscientious, tireless, and most co-operative efforts in typing and re-typing the manuscript, reading and re-reading the proofs, and, together with Mr. Tom Fairley, in improving the grammar and sentence structure of this report.

I was indeed fortunate to have Mr. Fairley, a most literate and experienced editor, working with me. Trained as I was in legal jargon, I never fully realized before that there were so many different ways in which to write a sentence, of which one had to be preferable. Towards the end of our ordeal, Tom Fairley had me so well trained that when we were reading proofs aloud we would sometimes simultaneously come up with the same correction. If this report is easily readable, all the credit goes to Tom Fairley and Mrs. Martin for their amendments to the manuscript. I also wish to thank Mr.

Fairley and Mr. Peter Maher for their assistance with the design of the report.

I am also appreciative of the encouragement of many friends, particularly when the way ahead seemed endless. Some of them acted at times as a sounding board. They often forgave me for turning down or cancelling social engagements.

My colleagues in Peel County carried extra workloads during those periods when I absented myself from judicial duties. I also acknowledge the kind assistance of Judge William A. Maedel and Judge (now Mr. Justice) Allan Hollingworth, who assisted me in connection with some of my administrative duties.

Chief Judge W. E. C. Colter and his executive assistant, Mrs. E. O'Brien, were kind enough to arrange from time to time for judges from other counties and district courts to come to Peel and assist with our heavy judicial workload. I also thank the judges who so kindly attended.

Finally, I wish to express my great debt to my wife Vivian for her sympathy, understanding, and encouragement. She not only patiently sacrificed her own time and convenience but permitted me to use our home as a store-room for manuscript, files, binders, exhibits, boxes, cabinets, and other paraphernalia. She and our family graciously tolerated the time I spent on the preparation of this report which would otherwise have been spent with them.

B.B.S.

COUNSEL APPEARING BEFORE THE COMMISSION

B. Clive Bynoe, Q.C. – Senior Counsel to the Commission

Nicholson D. McRae, Q.C. – Associate Counsel to the Commission

Robert J. Carter, Q.C., and John D. Evans – Counsel for the correctional officers other than Dassy, Bennett, and Torrance

Harvey M. Salem, Q.C. – Counsel for Gary William Stewart Dassy and Jane Charlotte Mannerholm

OTHER COUNSEL APPEARING FROM TIME TO TIME

Stephen Borins

Anthony G. Bryant

Representing

Richard David Van Dusen
George Frederick Roy Switzer

Gary William Stewart Dassy
Colin Joseph O'Hagan
Charles Wallace Nossey
Jane Charlotte Mannerholm

Michael J. Bukovac

L. P. Clyne

George C. Conn

H. J. Doan

Ronald D. Manes

(assisting Mr. Carter and Mr. Evans)

Frank N. S. Marrocco

Allan Mintz

J. D. McCombs

Terrence J. O'Sullivan

Chris G. Paliare

Patricia J. Peters

A. I. Posluns

John M. Rosen

C. C. Ruby

Ronald G. Thomas, Q.C.

David L. Zifkin

Stanley Michael Malouf

Glenn Roy Bennett

Daniel Leo Charette

Arthur James Monckton

Barton Roy LeSarge

Jane Charlotte Mannerholm

Gary William Stewart Dassy

Jane Charlotte Mannerholm

Charles Wallace Nossey

Giuseppe Diano

Richard David Van Dusen

George Frederick Roy Switzer

Howard Daniel Dean

Gary William Stewart Dassy

Jane Charlotte Mannerholm

Charles Wallace Nossey

Giuseppe Diano

Michael James O'Hanley

David Raymond Jinks

James Gordon Huntingdon

Daniel Roosevelt Pearce

Edward Torrance

Gary William Stewart Dassy

Jane Charlotte Mannerholm

Colin Joseph O'Hagan

REPORT OF THE
Royal Commission
on the Toronto Jail
and Custodial Services

VOLUME 1



His Honour Judge B. Barry Shapiro
Commissioner
B. Clive Bynoe, Q.C.
Counsel
Nicholson D. McRae, Q.C.
Associate Counsel
J. William Lidstone
Executive Secretary

The Royal Commission
on the Toronto Jail
and Custodial Services

416/965-9600
Suite 2215
120 Dundas Street West
Toronto, Ontario
M5G 1Z8

Suite 206
145 Queen Street West
Toronto, Ontario
M5H 2N6

To the Honourable Pauline M. McGibbon,
Lieutenant Governor of Ontario.

May it please Your Honour:

Our final report which occupies four volumes is
on the press and will be ready for presentation in
March 1978.

We have learned that the responsibility for the
old section of the Toronto Jail will be transferred in
February from the Ministry of Correctional Services to
the Ministry of Government Services. In view of the
fact that three of this Commission's recommendations
concern the jail buildings, it is considered appropriate
that the text of these recommendations be submitted
separately in advance of the final report.

Accordingly copies of Recommendations 2, 3 and 4
are herewith enclosed.

Respectfully

B. Barry Shapiro

Commissioner

January 19, 1978.



Ontario

His Honour Judge B. Barry Shapiro
Commissioner
B. Clive Bynoe, Q.C.
Counsel
Nicholson D. McRee, Q.C.
Associate Counsel
J. William Lidstone
Executive Secretary

The Royal Commission
on the Toronto Jail
and Custodial Services

416/965-9600
Suite 2215
160 Dundas Street West
Toronto, Ontario
M5G 1Z8

Suite 205
145 Queen Street West
Toronto, Ontario
M5H 2N9

To the Honourable Pauline M. McGibbon,
Lieutenant Governor of Ontario.

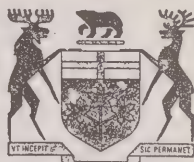
May it please Your Honour

Further to my letter of January 19,
1978, I am now pleased to enclose my final
Commission report. I trust that I have now
completed the duties as directed in Order
in Council 2634/74.

Respectfully,

B. Barry Shapiro

March 1978



Ontario

OC-2634/14

To The Honourable
GEORGE ALEXANDER GALE,
Chief Justice of Ontario
Administrator of the Government of the
Province of Ontario

REPORT of a Committee of the Executive Council
on Matters of State

May it please Your Honour

The Committee of Council have had under
consideration the report of the Honourable the
Minister of Correctional Services, dated the 8th
day of October, 1974, wherein he states that,

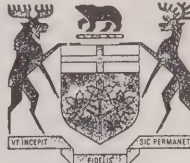
WHEREAS this Government has concern in
relation to the proper care and treatment of the
inmates of its correctional institutions,

AND WHEREAS allegations have recently
been made reflecting upon the manner in which
inmates have been treated at the Toronto Jail.

AND WHEREAS such matter affects the
administration of justice in Ontario and it is
thought fit to refer this concern to an inquiry
instituted pursuant to the provisions of The Public
Inquiries Act, 1971 S.O. 1971, Chapter 49,

The Honourable the Minister of Correctional
Services recommends that pursuant to the provisions

Approved and Ordered
Geo. A. Gale
Administrator of the Government of the Province of Ontario



Ontario

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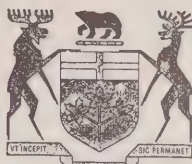
of the Public Inquiries Act, 1971, Chapter 49, a Commission be issued to appoint His Honour Judge B. Shapiro to inquire into, and report upon:-

- (1) recent allegations made by Gary William Stewart Dassy and Jane Charlotte Mannerholm of mistreatment of inmates by the use of unnecessary force and/or physical assaults upon such inmates and, if necessary evidence of similar acts.
- (2) the role and function of the correctional officers at that institution.
- (3) the particular service demands upon the staff of that institution.
- (4) the methods of recruitment, selection, orientation and training of correctional officers at that institution.

and to make such recommendations in relation to the above paragraphs as are deemed appropriate by him.

The Honourable the Minister of Correctional Services further recommends that all Government Ministries, Boards, Agencies and Committees shall assist His Honour Judge B. Shapiro to the fullest extent in order that he may carry out his duties and functions, and that he shall have authority to engage such counsel, investigators and other staff as he deems proper at rates of remuneration and reimbursement to be approved by the Management Board of Cabinet.

And the Honourable the Minister of



Ontario

- 3 -

Correctional Services further recommends that Part 3 of the said Act be declared to apply to the forementioned inquiry.

The Committee of Council concur in the recommendations of the Honourable the Minister of Correctional Services and advise that the same be acted on.

Respectfully submitted,

9th October, 1974.

Allan Grossman

J. J. Young

Chairman.

C.E.C.

I hereby certify that the above is a true copy of an Order made upon the 9th day of October, A.D. 1974 by the Honourable George Alexander Gale, Chief Justice of Ontario Administrator of the Government of the Province of Ontario.


Clerk, Executive Council of Ontario.

Preface

If everything we heard, everything we saw, everything we read, and everything we thought during our Commission were put into a cauldron and distilled, the resulting essence would contain the following truths:

1. Some persons, for the protection of society and as a deterrent to themselves and others, must be kept in custody and thus out of society for varying periods of time. Among them are some who must be kept in remand jails pending trial or transfer to other institutions, as well as some who are serving short sentences. The Toronto Jail performs this custodial function.

2. There are others who are at present kept in custody unnecessarily. Need the community build more and bigger jails for these people? Need they be removed from the productive work force? Need they and their families be supported for extended periods? The rational answer for them is *diversion*, that is, some other effective form of punishment, and not custody.

3. Those who are to be kept in custody at the Toronto Jail should be dealt with humanely by the correctional officers. Those same correctional officers should be properly selected and well trained and must, themselves, be treated with respect by the community.

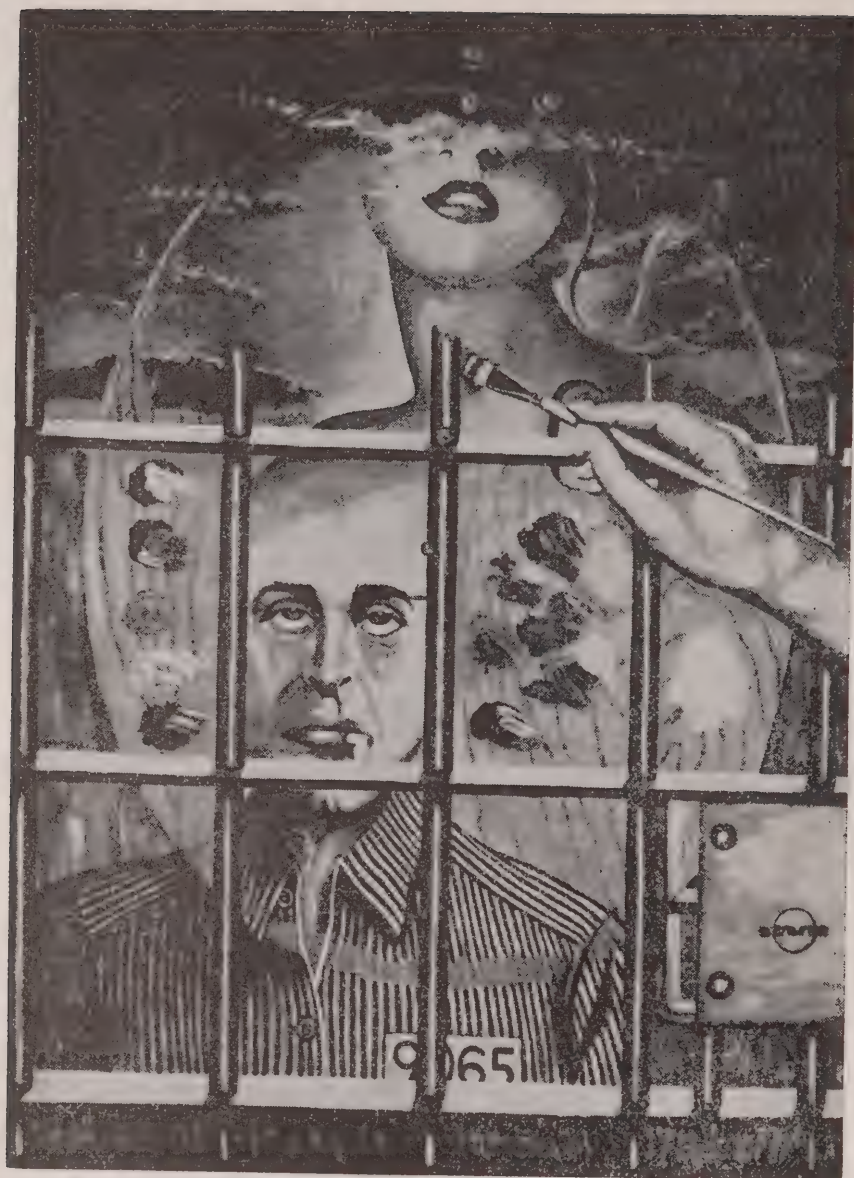
4. Buildings are only a part of the answer.

5. The most important factor is the attitude of the general public to the subject of corrections, for this affects the attitude of the correctional officer which, in turn, has an important influence on the conduct of the inmate. These mirrors within mirrors reflect and, in part, determine how the inmate will function in the community, which first jails him, then releases him, and finally must live with him again.

If a Commission is entitled to a philosophy, these five propositions express ours. The remaining 1,600 pages of the report explain the reasons for that philosophy, describe the base on which it is built, and set forth some suggestions.

B.B.S.

Introduction



"Convict's Reality", a painting by Joseph Michaniuk, reproduced by courtesy of the Prison Arts Foundation, Brantford.

“He has a right to criticize who has a heart to help. — Abraham Lincoln” — text on a plaque made by an inmate of the Toronto Jail and displayed in the visitors’ waiting room of the jail

*I know not whether Laws be right,
Or whether Laws be wrong;
All that we know who lie in gaol
Is that the wall is strong;
And that each day is like a year,
A year whose days are long.*
— from “The Ballad of Reading Gaol” by Oscar Wilde

. . . the man goes to prison, perhaps for the first time — a shocking event. He goes through practically all the formalities for a four or five days’ sentence that would apply if he were sentenced to a long term of imprisonment for a serious offence. — Winston Churchill, Home Secretary, in the House of Commons, July 20, 1910

When I was asked to assume the duties of Commissioner of a proposed inquiry into allegations of mistreatment of inmates at the Toronto Jail, I was advised that I could submit my recommendations for the appointment of Commission counsel. After first speaking to them, and obtain-

ing their consent, I proposed B. Clive Bynoe, Q.C., to act as senior counsel and Nicholson D. McRae, Q.C., to be the associate counsel to the Commission. These lawyers, highly regarded and well experienced in criminal law, were accepted. I give them credit for the efficient manner in which they directed and supervised the investigations of the police officers loaned to the Commission by the Metropolitan Toronto Police Force.

The investigating officers painstakingly inquired into the original allegations that had been made by former correctional officer Gary Dassy and nurse Jane Mannerholm of the use of unnecessary force by the correctional staff at the jail, as well as all of the allegations made subsequently by them and others. They conducted hundreds of interviews with members of the jail staff, inmates, and "independent witnesses". They obtained statements from all principals and witnesses. Their work permitted counsel to present evidence at the Commission hearings in a very detailed and complete manner. The 21,000 pages (120 volumes) of testimony recorded by the Commission, on the allegations alone, and the 1,300 exhibits filed attest to the thoroughness with which the allegations were investigated and presented.

Some idea of the scale of the task may be gained from the fact that the investigators worked a combined total of 1,512 days for the Commission. If the investigations and the taking of statements had been done by one investigator working eight hours a day, five days a week, 50 weeks a year, it would have taken him over six years. One man working eight hours a day continuously, with no holidays, would have taken more than four years.

The investigations permitted a thorough inquiry into the allegations of brutality. They enabled counsel to present all relevant evidence. They were of assistance to the Commission's research study on the inmates and correctional officers who were involved. The investigations also provided background information that is reflected in many of the observations contained in this report.

As will be seen from the terms of reference of the Commission, the allegations of the use of unnecessary force were divided into two categories – those made by Gary Dassy and Jane Mannerholm and "similar acts". At the outset, counsel and I had to address ourselves to the questions, whether it was necessary to consider "similar acts" and, if so, how we were to obtain information about such acts. Counsel suggested, and I agreed, that notice of our inquiry should be posted in all jails and penal institutions in Ontario, both provincial and federal, advising inmates of the existence of the Commission and of its terms of reference.

Anyone wishing to make any complaint of mistreatment while an inmate at the Toronto Jail could do so by writing to the Commission in secure non-censorable envelopes that would be made available on request.

In addition, advertisements were placed in major Ontario newspapers giving our terms of reference and the dates and place of hearings, and inviting anyone who wished to do so to make a submission. As a result of these notices, a number of written complaints of the use of unnecessary force were received. These allegations were investigated in the same way as those that had been made by Dassy and Miss Mannerholm. Counsel reviewed the correspondence, the investigative reports, and the statements concerning these additional allegations, and advised me in a general way of their contents. The new allegations contained further accusations against certain officers who had already been mentioned by Dassy. It was decided that, in order to obtain a full picture concerning instances of alleged mistreatment, and to test Dassy's evidence and put it in its proper perspective, it was necessary to hear evidence of those similar acts. Further, Dassy had been an employee of the Toronto Jail for a relatively short time (April to August 1974), and the other allegations spanned a much longer period. Moreover, evidence about the other allegations was relevant to the other aspects of our terms of reference – those that concerned the role and function of the correctional officer at the Toronto Jail, the service demands on him, and the methods of recruitment, selection, orientation, and training. Finally, it was considered only fair to both inmates and correctional officers that written complaints received in response to the notices posted in the jails and published in the press should be investigated.

Some of the inmates who wrote to the Commission alleged not just one assault, but two, three, or four. The incidents brought to light in this way involved 43 inmates. The cases of five of these inmates were chosen by lot to be heard orally in the same manner as the allegations put forth by Dassy and Miss Mannerholm. The other 38 were considered to be similar in nature to these five, and they were presented at open hearing in a more summarized form.

Other groups of cases were also presented orally to the Commission. One of these groups comprised complaints that came to light during the investigation and hearing of Dassy's allegations. A second group, eight in number, were the result of the transfer of some inmates by bus from the Guelph Correctional Centre to the Toronto Jail; this is referred to elsewhere as the "Blue Goose" episode.

Finally, there were the cases of inmates Benn, Pearce, Switzer, and Malouf. These came before the Commission in a rather unusual manner.

York mayor: 'Only the wealthy' will buy a home by 1980

The city's chief executive, Mayor John D. White, said today that only the wealthy will be able to afford the cost of a home in Metro by 1980.

White said the city's housing commission is studying the possibility of a five-year plan to build 10,000 new homes by 1980.

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Canada may cut immigrant inflow

OTTAWA — The 1967 Immigration Act, which set the goal of 150,000 new immigrants a year, may be revised to cut the inflow to 100,000 by 1980, according to a report by the Immigration Commission.

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Four Star edition

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OTTAWA — The minimum wage will be raised to \$2.25 an hour tomorrow.

The new wage will apply to all workers in the manufacturing and service sectors.

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LISBON — General Spínola has resigned as president of Portugal.

Spínola's resignation was announced today by the Portuguese government.

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40 families flee bomb in St. Thomas

ST. THOMAS — Forty families fled their homes after a bomb exploded in the city.

The explosion occurred in a residential area.

'No comment' as investigation starts at jail

ST. THOMAS — The police are investigating the explosion at the jail.

The police have not yet released any information.

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Two probationary correctional officers, C.O. 1 Glenn Bennett and C.O. 1 Edward Torrance, were discharged by the jail in May 1975. Their dismissals were challenged by their union, the Civil Service Association of Ontario. The matter escalated and the flames of controversy were further fanned by publicity given to statements of spokesmen for the Association and the Ministry. For a time there was a threat of a strike. Indeed, a short-lived walkout, lasting part of a day, did occur. The Association suggested that the Commission should arbitrate the dismissals. The Ministry took the position that, since the two correctional officers were in their probationary period, the dismissals should be treated like those of other civil servants and dealt with under the prescribed grievance arbitration procedure. We explained the limitations of our terms of reference. In the end, it was agreed by both sides that we would hear evidence concerning Bennett and Torrance, but only on the matter of their alleged use of unnecessary force.

A review of the allegations heard by the Commission is presented in Volumes 3 and 4, under the following headings:

1. Principal Allegations
2. "Write-in" Allegations Heard Orally
3. Other "Write-in" Allegations
4. Allegations against Former Correctional Officers Bennett and Torrance.



Before the hearings began, counsel and I decided upon a division of our duties. To give me the detachment I would need to arrive at objective findings and to make judgments, not only on investigative reports or statements but on the evidence as presented, it was agreed that I would not participate in the investigative process, save for reserving the right to request additional evidence when I considered it necessary to do so. I exercised this right from time to time, and an issue never arose between counsel and myself in this regard. As for the judgments and findings on the allegations, I assume full responsibility. It is said that in every issue or lawsuit involving two persons, where a judgment or finding of fact has to be made, one of the parties must lose. To the 50 percent who will be dissatisfied with my findings, I can say that I attempted to exercise those judicial functions impartially and without regard to whether the principals were correctional officers or inmates.

It was also agreed beforehand that counsel for the Commission should present all the relevant evidence and not take an adversary posi-

tion. All parties appearing before the Commission were entitled to be represented by counsel. Dassy, Miss Mannerholm, the correctional officers, and some of the inmates were so represented. At the conclusion of the hearings, counsel other than Commission counsel were invited to submit written arguments, and some availed themselves of this opportunity. In the acknowledgements, counsel who appeared at various times before the Commission are listed. They were courteous and fair in their examinations and cross-examinations of correctional officers, inmates, and other witnesses. Where enthusiasm at times caused any departure from this, a gentle reminder was sufficient to bring counsel back to this manner of proceeding. The result was that witnesses were encouraged to give their evidence in a spirit of co-operation. This did not by any means solve the problem of credibility and conflicting evidence, but it did create a more relaxed atmosphere for those who might otherwise have been hostile, distrustful, or negative. The few exceptions to this are commented upon separately in the review of the individual allegations.

A rather important object lesson was learned from the Commission hearings, namely, that if inmates are treated in the same manner as an acquaintance one might meet on the street, they will react in kind. Why could this not have been done while they were in the Toronto Jail? Certainly, some of the incidents stemmed initially from the way correctional officers spoke to inmates. Was it feared by some staff members that a more civil approach would be rebuffed by inmates who wished to impress their peers? It is not suggested that officers should be obsequious or exaggeratedly polite. Some inmates spoke of the importance of "respect", by which they meant that they did not want to be demeaned. I am sure that a firm and impersonal but not discourteous attitude on the part of staff when dealing with inmates would have reduced the number of incidents. Hostility breeds hostility, consideration begets consideration. It is a question of attitudes, and counsel's way of examining witnesses set the proper tone.

As for the correctional staff, here, too, the response during the hearings was generally free of belligerence. Why? A matter of concern to the officer is his standing in the community. Some tend to hide their occupation when they are outside the jail, believing that they are looked down upon. What they ask is the same as what the inmates ask – "respect" – and this was accorded to them in proper measure by counsel. After some of their suspicions had been allayed and they realized that the Commission's intent was to inquire into the allegations and not to pillory them, they responded in a co-operative manner.



Ontario

**THE ROYAL COMMISSION
ON
THE TORONTO JAIL
AND CUSTODIAL SERVICES**

By Order-in-Council dated the 9th day of October 1974, His Honour Judge B. Barry Shapiro was appointed a Commissioner to inquire into and report upon

- (1) recent allegations made by Gary William Stewart Dassy and Jane Charlotte Mannerholm of mistreatment of inmates of the Toronto Jail by the use of unnecessary force and/or physical assaults upon such inmates and, if necessary, evidence of similar acts,
- (2) the role and function of the correctional officers at that institution,
- (3) the particular service demands upon the staff of that institution,
- (4) the methods of recruitment, selection, orientation and training of correctional officers at that institution,

and to make such recommendations in relation to the above paragraphs as are deemed appropriate.

Any person wishing to communicate information, or to make oral or written submissions (including briefs) to The Royal Commission on any matter within its terms of reference is asked to write to:

The Secretary
The Royal Commission on the Toronto Jail
and Custodial Services
Suite 305
145 Queen Street West
Toronto, Ontario
M5H 2N9

Telephone (416) 965-3211

Public hearings are scheduled to commence on Wednesday, November 6th 1974, at 10:00 a.m., in Court Room No. 4, 4th Floor, 145 Queen Street West, Toronto, Ontario.

Dated at the Municipality of
Metropolitan Toronto, in the
Province of Ontario, this
28th day of October, 1974.

J.Wm. Lidstone
Executive Secretary

The press notice announcing the opening of the Commission's public hearings.

This is not to say that inmates and officers made the matter of findings on credibility unnecessary. Quite the contrary. In most of the cases, credibility was an important issue. There were many possible reasons for this – self-interest, a defence mechanism, a desire to put one's best foot forward, an idea of loyalty to one's peers, and so on. But this is not peculiar to custodial situations. It is well known to parents and teachers, among others. The important thing is that, save in a few cases, we were able to remove the factor of hostility.

The number of witnesses who gave evidence at the Commission's public hearings was 262. Some of these persons gave evidence on more than one occasion. The number of appearances by witnesses, concerning the allegations alone, was 541. In the hearing of the Frost allegation, which was the initial case before the Commission and one that provided important background for a proper understanding of the other cases, no fewer than 56 witnesses were called.

To assist witnesses in the identification of staff, and at times also to test a witness's power of recall and even his credibility, a book of photographs of employees of the jail was used. On occasion, the identification of an officer by an inmate left much to be desired. Reference to attendance registers sometimes showed that an officer named as being involved was not on duty and in some instances was not even employed by the jail when the assault was alleged to have taken place. The causes of such misidentification ranged from innocent mistakes arising from faulty memory to a reckless disregard of the importance of proper identification, and even to a desire for revenge for some real or imagined wrong. As a further aid to witnesses, photographs and floor diagrams of the jail were used. Some of these are reproduced at the front of Volume 3.



At the outset of our discussions and prior to the hearing of any evidence, the first item of our terms of reference – concerning the allegations of the use of unnecessary force – was designated as Phase I of the inquiry. Phase II was to include the other three items, concerning the correctional officers, their role and function, the service demands on them, and the methods used for their recruitment, selection, orientation, and training. Evidence with reference to Phase I was to be presented first, as far as possible in open hearings, and we would then consider the Phase II items. This, generally, was the method followed.

Near the beginning of our hearings, I was asked to which of the two



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The notice for posting in jails, announcing the opening of the Commission's public hearings.

phases I attached greater importance. My reply was in favour of Phase II, as I felt that its implications would have more lasting effects and that Phase I was mainly a matter of determining whether certain allegations could be proved. As time went on, it became more and more apparent that there was a much stronger link between the two aspects of the inquiry than was originally thought, and there was an increasing awareness that Phase I was the essential foundation on which Phase II would have to be built. At times during the examination of witnesses, in Phase I, questions naturally slipped from one phase to the other. Witnesses who had been called in connection with the allegations were often asked what they considered to be desirable qualities in a correctional officer, or how officers should be recruited and trained and what their duties should include. Such questions often became relevant to the issue of whether the force that had been used was justified.

Further, when one looked at the vast amount of literature referable to Phase II, it became apparent that, in parallel with our hearings on Phase I, a start should be made at reading and correlating this material. Accordingly, research readers were added to the staff. The general bibliography at the back of this volume, together with the special bibliographies elsewhere on particular subjects, indicates the scope of their work.



Where does one start when considering the duties of and institutional demands on correctional officers? Where, indeed, does one start when considering the duties of any occupation? One must consider the product that is dealt with, and the setting in which the work is done. In the case of correctional officers, the product is people – the inmates of the jail. The setting, or milieu, in which the officers must work is the jail.

The inmate population of the Toronto Jail comprised, during the period of the complaints, (a) remand inmates awaiting trial or appeal on charges ranging from non-payment of traffic fines to arson, rape, and murder; (b) short-term inmates serving sentences of 30 days or less; (c) long-term inmates facing custodial time beyond 30 days and up to life imprisonment and awaiting transfer to some other provincial institution or to a federal penitentiary; (d) inmates serving weekend or other intermittent sentences, not exceeding 90 days *in toto*; (e) inmates on tickets-of-leave or work permits, at such times as they were required to be in custody; (f) inmates awaiting immigration hearings; (g) inmates remanded for mental examinations or awaiting transfer to mental

hospitals; and (h) inmates who had posed behavioural problems in other institutions, and were awaiting transfer or were serving the balance of their sentences at the Toronto Jail.

Concerning inmates in group (b), although 30 days was supposed to be the maximum sentence to be served in the Toronto Jail, many inmates served longer sentences there. With reference to group (c), one inmate remained at the Toronto Jail in the death cell for approximately two years, until his sentence was commuted and he was transferred elsewhere. During our hearings, and as a result of information that came out in evidence, most of the inmates in groups (d) and (e) were transferred to other institutions. This helped to alleviate the overcrowding. Inmates in group (f) who were not facing additional criminal charges were also moved.

As for the milieu, how different was the Toronto Jail from other facilities that served similar purposes and housed similar groups of inmates? Neither the jail itself nor its inmates and staff can be considered in a vacuum. Comparisons with other institutions are necessary. Are the inmates at the Toronto Jail different from the inmates elsewhere in Ontario and in other jurisdictions? How does the conduct of the jail's correctional officers compare with that of officers with similar duties in other places? What should be the guidelines for the recruiting and training of correctional officers, and for the service demands made on them?

The above questions prompted correspondence with other provinces, with many states in the U.S., and with some western European countries. Through this correspondence and conversations with knowledgeable Ministry people and others, arrangements were made to inspect a number of institutions. Those visited in addition to ones in Ontario were in Quebec, California, England, Holland, Denmark, and Sweden. These jurisdictions were carefully selected on the basis of the advice we received. In addition, we visited training schools in the five other countries. We also had opportunities to discuss correctional matters with learned and world-renowned persons in the field, who were most helpful in providing background information for this report on a number of topics.

We saw the good and the bad of various systems. We compared the Toronto Jail's facilities and procedures with those of other institutions. We saw what had been tried and discarded, what had been espoused as new and found to be unworkable. We learned that many problems of the jail were widely shared in other places – that the admitting area tends to be one of the most sensitive parts of any jail, that taking a recalcitrant inmate to segregation is fraught with difficulty, that persons awaiting trial or sentencing are likely to be tense, that young inmates

cause a disproportionate number of incidents, that the training and attitudes of correctional staff are of crucial significance. Those are a few of the problems that most jails seem to have in common. It was helpful to learn how other jails cope with them. The ideas for some of our recommendations stemmed from what we saw elsewhere.

Of particular assistance in other jurisdictions was the opportunity to talk with staff and inmates, and with those responsible for policy-making and administration. I also had the advantage of contact with persons who have spent lifetimes studying the correctional field and its many facets.



A brief recounting of a few of the matters we considered while visiting other jurisdictions may be of interest. In Quebec we met with Roger Labelle, Director of Houses of Detention, and we visited two Montreal institutions, one a modern remand jail and the other a short-sentence provincial facility.

In the first, the Montreal Detention Centre, we saw the single advantage (security) and the many disadvantages of housing a jail on the top floors of a high-rise government office building. In the second, the Bordeaux Jail, we saw an old building brightly painted and with part of its basement adapted for sports purposes. It was summer and there were two large above-ground swimming tanks in the outer yard. These were for inmate use only. Half jokingly, reflecting the thoughts of the staff, it was mentioned to us that the inmates had better amenities than the staff. We heard a similar comment with reference to an outdoor swimming pool at Chino, California. Of course, at the end of their work day officers can leave the jail and engage in their own activities. However, I am firmly of the belief that the pressures of their work should entitle staff to have the same institutional opportunities for recreation as inmates, while they are on the premises. In other words, if there is a gymnasium in the jail for use by inmates, correctional officers should also be allowed to use it. As for the extent of such use, and whether it should be outside working hours, and whether joint use with inmates should be allowed, these matters should be at the discretion of the superintendent. Allowing officers at least some use of such facilities will lessen their resentment and make for better management-officer relations.

What impressed me most at the Bordeaux Jail was its system of classification. Inmates were kept in a classification wing for a week. Then, after input from staff, from records, and from auxiliary persons, it was

possible to assign them accurately to specific areas of the jail. A somewhat similar classification period and system, perhaps even more sophisticated, was used at the Ontario Correctional Institute in Brampton. The classification procedure at the Toronto Jail is discussed in the recommendations.

In California, we spent time with correctional people at the state capital, Sacramento. We also visited several jails in California, where each county elects its own sheriff, who is responsible for the county jail. The sheriff's agents or officers are trained for both custodial and police duties. An officer may work for a time on highway patrols and then be assigned to a stint of jail duties. From the officer's point of view, there are advantages (pay) and disadvantages (lack of specialization) in such a system. Also, the funds designated for corrections vary from county to county, depending on the size and wealth of the county and on the priority the sheriff attaches to correctional matters.

We examined the California selection and training directives, as well as the training program of each county. We saw overcrowding worse than that at the Toronto Jail, and living conditions much less attractive in one jail, where we observed officers walking along gangplanks over caged security areas. In another jail we saw segregation cells with virtually no lighting. On the other hand, we observed enlightened classification procedures at Chino and a computerized admitting system at the Los Angeles County Jail, with more than 5,000 inmates, providing instant information as to when and where each inmate will be tried.

In England, we received the complete co-operation of department heads of the Prison Service of the Home Office. We met jail governors, prison officers, and inmates in a number of institutions, ranging from a Borstal to an after-care day centre.

Most of all, we were impressed with the professionalism of the Prison Service and the almost benevolent attitude of officers towards inmates. This was illustrated by an incident involving a group of inmates who disobeyed a command to come in from the exercise yard. I asked, "What did you do when they refused to obey?" The matter of fact reply was, "Why, we just left them out there. We said, 'When you are ready to come in, you'll get fed.' They stayed out for a while, then it rained. They came in and we fed them. There was no fuss or bother."

In Holland and Denmark, in addition to visiting jails and staff training centres, we had meetings with academics with world-wide reputations in corrections.

In Sweden, we met with the heads of the prison service and visited a

new remand and short-sentence jail as well as a training centre. In the latter, we discussed the importance of early training of new staff and the idea of having teams of training officers visit jails rather than sending correctional officers away on courses, so as to cut down the loss of working time.

We saw rooms set aside for conjugal visits in Sweden and a conjugal visiting house in California. Our opinion is that the weekend pass system used in Ontario for conjugal purposes is to be preferred. In Sweden we also talked about volunteer services with a participating citizen and learned how, with the help of concerned and dedicated persons, the probation and parole workload may be reduced to the more intimate and helpful one-to-one basis.

In Ontario, we discussed our terms of reference with many Ministry officials, all of whom were most open and helpful. Early on, we saw the plans for the two new Metropolitan Toronto detention centres and later inspected them both. In addition, we toured Ontario jails, new and old, detention centres, a correctional institute, an adult training centre, a facility for women inmates, and other penal institutions. We also made repeated visits over a period of time to the Toronto Jail, and we were pleased to note improvements, some of which were the result of information that came to light during our inquiry.

We also spent time with training staffs and with those responsible for training programs. In this connection, we visited regional training centres and compared their syllabi with that of the Toronto Jail.

We met with persons from the federal corrections scene and discussed with them matters related to our terms of reference.

There were institutions that we were invited to visit, but time and other constraints, as well as the diminishing value of further visiting, explain why we declined. Among these places is one that I shall follow with great interest. It is the U.S. Bureau of Prisons Federal Center for Correctional Research at Butner, North Carolina. There, an experiment dealing with recidivists with histories of violent behaviour is being conducted. As a safeguard against any charge of inmate manipulation, there are no time-remission benefits for participating in the Butner program, which is voluntary.

During the period of the Commission, I had an opportunity to attend a conference on violence sponsored by the Centre of Criminology of the University of Toronto. Two researchers of our staff also attended various workshops on volunteers and volunteer services, held under the aegis of the Ministry.

Finally, we held round-table discussions in our offices with various members of the Ministry, and with representative groups from the Toronto Jail of line officers, senior officers, and members of the Superintendent Group, to discuss items 2, 3, and 4 of our terms of reference. So as not to inhibit these discussions, they were informal and closed. We attempted to be as thorough in our examination of items 2, 3, and 4, as we had been in our examination of the allegations. It is hoped that our interpretation and exposition of this complicated field will prove to be of value.



Concerning the findings of fact on the alleged assaults, some of the allegations were proven and others were not. At times, the line between necessary and unnecessary force was thinly drawn. There were findings of use of unnecessary force in about two allegations out of five, including the summarized "write-ins".

There were some instances of officers seemingly enjoying physical contact, but these were not frequent; indeed, with the exception of Gary Dassy they were rare. A separate section is devoted to Dassy in the Observations, not only because he was the person who, in effect, sparked the Commission, but also because he was a useful prototype of an unsuitable correctional officer. Dassy's case illustrates some of the pitfalls that may be encountered in recruiting, selection, and training, and it underlines the misinterpretation an employee may make of his role and function as a correctional officer.

Where the conduct of correctional officers other than Dassy has been criticized, there was usually a similar misinterpretation of their role and function. If not this, then there was a conflict in their minds between the Ministry's directive for the treatment of inmates and what they believed to be the best interests of the Toronto Jail. The disturbing fact was that, at times, officers above the rank of C.O. 2 encouraged the use of extra force as either a punishment or a deterrent, or both. Even if the encouragement was only tacitly communicated to the line officer, it set a bad example.

Some of the findings of the use of force were unpleasant to make, for they often had to be made against people, correctional officers and inmates alike, who appeared to be worthy in other respects. Some of these persons co-operated fully as far as attendance and testimony were concerned, and some also assisted in other phases of the inquiry.

Some of the correctional officers who were named were exonerated

of any wrongdoing. In this respect the inquiry cleared them of unjust accusations.



During our hearings there were references to the Toronto Jail's reputation. Like some people, institutions in the correctional system begin to develop a set character and to acquire a reputation. The Toronto Jail was such a place. What was its reputation? The allegations in Volumes 3 and 4 provide the opinions of many individual witnesses on this matter. It was our impression that there were officers who considered it an advantage for the jail to have a reputation for strict discipline and perhaps even for a tough attitude towards inmates who stepped out of line. As for some of the inmates, the allegations reflected a feeling among them that there were staff members who were not beyond using more physical force than necessary.

How valid was this reputation of the jail among inmates — a reputation which, incidentally, was shared at times by some members of the general public? The fact that 124 allegations are reviewed in Volumes 3 and 4 may give a wrong impression. If the number seems large, it should be remembered that the events spanned the years from 1968 to 1975, though, obviously, not every complaint that could have been made concerning those years was made to the Commission, despite all our invitations.

To help put the matter in its proper perspective, it might be noted that the total number of inmate-days spent at the Toronto Jail in the 12-month period ending March 31, 1974, was 225,756. In the next 12-month period, the figure was 240,216. In 1975-6 the inmate-days totalled 285,578, and in 1976-7 they totalled 273,666.

It may be seen that, against a background of the total number of days spent by inmates at the Toronto Jail, the number of allegations is rather small. This is not to justify any allegations that were proven true. The events that led to them should not have occurred, and all possible steps should be taken to ensure that such incidents do not occur in the future.

Although the number of allegations of the use of unnecessary force exceeded 120, this was only part of the picture. Our hearings revealed that there was at times rough and inconsiderate treatment of inmates which fell short of, or did not result in, any formal complaint. This last together with the proven allegations may in part account for the jail's reputation.

The living conditions that prevailed in the old section of the jail are

commented upon elsewhere in this report. Fortunately, that part of the problem has been rectified by the closing of the old section, in so far as accommodation for inmates is concerned.

It is also illuminating to compare the Toronto Jail's population with that of other jails in Ontario. During the period covered by the above figures, the next busiest jails after the Toronto Jail were the Hamilton and Ottawa-Carleton facilities. In 1974 each provided approximately 45,000 inmate-days. In 1975, Hamilton provided approximately 51,500 and Ottawa-Carleton 43,200. In 1976 and 1977 each jail provided under, but close to, 60,000 inmate-days. That is to say that the Toronto Jail's population on an inmate-day basis was approximately five times that of either of the next two jails in Ontario. If the optimum jail population is 200, as has been widely suggested, one can see how the Toronto Jail's size must have contributed to its problems.



The allegation of the existence of a "goon squad" in the Toronto Jail must also be put in its proper setting. The origin of the slang word "goon", meaning someone stupid, is unknown. The word has been used to refer to a person hired to terrorize workers, and it was used to refer to the guards in enemy prison camps during World War II. Its association with jails is also widespread.

When an alarm is sounded or an emergency arises, there is a need for extra officers to help contain the situation. Naturally, one would hope to have experienced and physically strong officers available at such times. If two men are on duty on adjoining corridors and one of them can be spared, it is to be hoped that the one who responds is the more experienced and the stronger. Any officers who happened to be in the tea room of the Toronto Jail were expected to respond – no matter what their size or their experience. You might have several responding at the same time, joining those available to come from the corridors. This would give an impression of numbers, which is exactly what would be desired and needed to contain a volatile situation.

Some officers in the Toronto Jail responded more often than others when extra help was called for. As a result, Dassy, Casey, and Stafford, for example, were more easily identified by inmates than other officers, and this may have given inmates the impression that they belonged to an organized disciplinary unit.

I find that no such established squad, to be used as a mobile reserve,

existed in the jail. Those who responded to an alarm were those who were on duty and could be spared at the time. There was no assignment of officers' shifts for the purpose of having certain officers available for emergency duty.

At times, more officers responded than were needed to control a situation. I found that, in most cases when this happened, the senior officer whose duty it was to assess the situation dismissed any who were not needed. When this was not done, it sometimes had the effect of aggravating things.

As mentioned elsewhere, it would be best if senior officers were never directly involved in physical confrontations, but this cannot always be the case, for a senior officer may on occasion be attacked by a violent inmate and have no choice but to become personally involved.

If one were to generalize about the correctional staff at the Toronto Jail, one would have to say that the majority were doing a commendable job, carrying out their duties in less favourable surroundings and circumstances than existed in most other correctional institutions in Ontario. The officer who works in an adult training centre can establish, over a period of time, a rapport with his inmates. Like the school teacher who has a regular class, he can experience the satisfaction of helping his charges and seeing them develop in worthwhile ways. But, for the most part, the correctional officer at the Toronto Jail is similar to the school teacher who teaches only on an occasional basis – except that in the jail it is the inmates and not the officers who come in for short periods of time. The extensive use of the Toronto Jail for remand purposes and its large turnover of inmates make it more difficult for it to conduct rehabilitation programs. It is for this reason that example and attitude, and indeed all facets of the relatively short correctional officer-inmate contact and relationship, become so important.



Following the Observations, in this volume, are the final recommendations of the Commission. From time to time during the hearings, rather than waiting until the report was completed, we made certain suggestions to the Toronto Jail authorities. Also, certain shortcomings at the Toronto Jail were brought out in evidence. I am pleased to say that there was a good response from the jail, which carried out, among others, the following improvements:

1. Compulsory medical examinations before and after segregation.

When a doctor was not on duty, this examination was conducted by a nurse and the matter was later considered by a doctor when one came on duty.

2. Better arrangements for sports and physical activities.
3. An educational program.
4. A revision and consolidation of Standing Orders.

The urgent matters of overcrowding and understaffing were brought directly to the attention of the Ministry and significant improvements were made.

Although this Commission was concerned primarily with the Toronto Jail, some of the recommendations may, with very little adaptation, be applied to other jails and correctional institutions in Ontario.

For example, the recommendation for a Toronto Jail Council might be adapted to suit the Metropolitan Toronto detention centres or expanded, as one all-embracing Metropolitan Council, to include all Toronto jail and detention facilities. Similar councils might be set up elsewhere in Ontario. They would, at little cost, serve much like an ongoing Royal Commission.



In Volume 2 will be found the texts of selected briefs, an outline of the historical background, a summary of the relevant law, a statistical survey of the jail's inmates and correctional officers, a training supplement, and a report on the forms in use at the Toronto Jail.

The Commission was indeed fortunate in the quality of briefs submitted to it by many learned and professional persons. It was obvious, on a reading of these briefs, that considerable time and thought had been expended on their preparation. In many cases, observations and suggestions contained in the briefs coincided with the Commission's own thoughts and recommendations.

With the closing of the old section of the jail, some of the matters dealt with in the briefs may no longer be applicable. Nevertheless, they are relevant to the period of the allegations and have been included for that reason. It is hoped that the mistake of allowing excessively outdated and inadequate buildings to be used for inmate accommodation will not be repeated.

The briefs submitted by inmate Walter McCullough and by Superintendents Whitehead and Taylor and others employed in the jail are particularly commended to the reader as showing, from personal expe-

rience, the problems confronting inmates and correctional officers.

The historical section is based on the Commission's research as well as on information obtained from the British prison system and other sources. The section shows the development and progress that has been made in the field of corrections.

The section relevant to the law provides background information on the legal status of the inmate and of the correctional officer and other officials.

As for the statistical survey, we considered that it would be of some advantage if a profile could be obtained of the type of inmate and the type of correctional officer that tended to become involved in confrontations. Accordingly, a study was undertaken. To the best of our knowledge, this is the only study of its kind, concerning a group of inmates whose allegations are detailed and considered in the same report. It is hoped that the profile developed in this statistical survey may be of assistance in identifying inmates and officers likely to become involved in confrontations.

The profile of the correctional officer might assist in the assigning of staff. The experience of this Commission in reviewing the allegations indicates that some correctional officers relate better to mature inmates than to younger ones.

Finally, Volume 2 contains the result of our research into training systems used in other jurisdictions and the literature on the subject. The training within the Ministry, including the training of correctional officers at the Toronto Jail, improved steadily during the period of the Commission and is now probably better than that in most other jurisdictions. But the methods used for training correctional officers and cadres of training officers should be reviewed and revised periodically. It is hoped that the summary and bibliography on the subject of training research will prove useful. The training supplement also contains a short manual for use in the training of line officers, based on incidents culled from the Commission's hearings of the allegations. Further with reference to training, it was indicated to me by various persons in the Ministry, the Toronto Jail, and elsewhere that the accounts and analyses of allegations (in Volumes 3 and 4) could well be used for the training of correctional staff at all levels.

Of necessity, only a selection of the more important materials compiled by the Commission have been included in the report. The complete papers, including all exhibits, will be available at the office of the Provincial Archivist. Among the documents not included in the finalized

report are comparative studies of the Toronto Jail, provincial institutions, and federal institutions, dealing with inmates' and correctional officers' duties, rights, discipline, and grievances.



The main consideration in the writing of the report was the need for full coverage of our terms of reference. In order to "inquire into, and report upon . . . and to make such recommendations . . . as are deemed appropriate" on the role and function of correctional officers at the Toronto Jail, the service demands on the staff of the jail, and the methods of recruitment, selection, orientation, and training of the jail's correctional officers, one had to consider the inmate. For it is the inmate who is the correctional officer's *raison d'être*. The inmate half of the jail scene would be blank if we had not examined in detail the allegations cited to us in item 1 of the terms of reference and all their surrounding circumstances. As one expert has said, if there were no inmates, correctional work would be exceedingly easy and would pose no problems.

The work of writing the report began with the detailed accounts of the allegations, which occupy Volumes 3 and 4. Altogether 124 allegations of "mistreatment of inmates by the use of unnecessary force and/or physical assaults upon such inmates" were made, and they involved 92 inmates.

It was necessary to review the evidence and the exhibits in each of these cases in detail. The same tests of weighing evidence and deciding upon credibility had to be applied as would have formed the basis for a judge's instruction to a jury at trial. In this regard, one had to take into account the self-interest of each witness. In most cases, the witnesses were either correctional officers or inmates. There were few really independent witnesses. The fact that a witness had some interest did not necessarily mean that his evidence was untrue, but interest was one of the factors that had to be taken into account.

Did the witness have a clear field of observation? Did he have a full opportunity to learn the truth? What about his ability to recall and relate events? What was his past experience as a witness? In this connection, it was indicated by counsel acting on behalf of the correctional officers that they had never been in a witness box before, whereas many of the inmates had had court experience. This disadvantage, if it was one, may have been offset by the next consideration. Did the witness have an opportunity to discuss his evidence with any other witness beforehand, and if so, what was the likelihood of his having availed

himself of that opportunity and of having been influenced thereby? Did the witness in a report or in a statement say something different from what he had said at the hearing? What was his demeanour and manner of giving evidence – did he hedge on his answers and how did he stand up on cross-examination?

It was therefore necessary while preparing the report to refer to other evidence from time to time, and with so much evidence recorded this sometimes involved rather lengthy searches. All, part, or none of what a witness said might be true. At times the departure from the truth might be deliberate, at other times unintentional.

At any rate, the evidence was fully considered and findings of fact were made, one way or the other, on almost all of the allegations. At the outset of our hearings, as Commissioner, I made the following statement:

I would like now to address some remarks to the general public and to assure the public that these proceedings will be carried out in a full and fair manner to all parties, and with an open mind. It is not our intention that this be either a whitewash, on the one hand, or a witch hunt, on the other. I do not intend to prejudge the issue. There will be a considerable amount of evidence to be heard and we intend to patiently hear it all. We will listen to all persons who have anything relevant to say on the issues as set out in the terms of the Commission.

The test in the weighing of evidence at our hearings was the civil one, based on a preponderance of probabilities, and not the one used in criminal cases, of proof beyond a reasonable doubt.

The allegations were not ends in themselves. A decision as to whether there was an assault in each case was a requirement of our terms of reference, but it was secondary to the more important question of what caused the confrontation and how it could have been avoided or at least lessened. The cumulative experience derived from the investigation of the incidents might then be applied so as to reduce the likelihood of similar occurrences in the future, because the answers, if there were any, to these broader questions would be found in the individual episodes. No matter how transitory some of them may have appeared at first glance, the allegations assumed increasing importance as more and more of them were examined. As already noted, instead of item 1 of the terms of reference being a phase distinct and apart from items 2, 3, and 4, it became the basis for a true consideration of the other three.

To help the reader understand the allegations, a description of the geography of the Toronto Jail and a short glossary of some of the col-

loquial terms used by witnesses appear by way of introduction to the allegations, at the front of Volume 3.

It is hoped that the accounts of the allegations in Volumes 3 and 4 will be widely read. The general public must obtain an insight into the problems confronting the inmates and the correctional staff. Unless this happens, there will continue to be misunderstanding about the cause of confrontations. It is vital that the community interest itself in the role of the Toronto Jail and support worthy undertakings of the Ministry that depend on public understanding and co-operation for their success. On the cover of the Ministry of Correctional Services' 1978 calendar are the words, "The key to rehabilitation is in your hands . . . participate in '78." On the reverse side, there is the following explanation:

Each year, the Government of Ontario's Ministry of Correctional Services issues calendars, such as the one you are holding, to employers across the province for the purpose of making the business community aware of the great need for job opportunities that exists among the offenders presently under the Ministry's jurisdiction.

Society in general benefits when probationers, parolees, and ex-inmates who are anxious to enter the working world are given the chance to prove both to themselves and to the community that they can be productive, law-abiding citizens. Regular paid work has been shown by research to be the single most important factor in helping the offender to make a new start in life.

In addition, we in the corrections field in Ontario owe a large debt of gratitude to the many volunteers who work with us, playing the role of friend and teacher to the offender. These people willingly share their skills, their knowledge, and their time. But above all, they give of themselves.

With the help of employers, volunteers, and others who help us, corrections in the community will become a way of life in this province. The rewards to all of us in both practical and emotional terms will be enormous.

The participation of volunteers in correctional work is dealt with elsewhere in this report and in some of the briefs. Walter McCullough spoke of the need for community involvement, especially in rehabilitation work. It is all too easy for the ex-inmate to slip back into his old ways. Indeed, at times the indifference of some members of the community tends to push him in that direction. There must also be community concern for the inmate while he is in jail, which means concern for the correctional officer too, since he is the community's representative. How the officer is treated by the community is reflected in the

treatment he passes on to the inmate. If his work is professionalized by proper recruitment, training, and pay, he will treat the inmate in the professional manner necessary to reduce recidivism or at least to lengthen the amount of time between jail attendances. There are, of course, some incorrigibles, but the vast majority of those who pass in and out of the Toronto Jail can be helped through proper custodial methods and attitudes and through community co-operation and understanding. In this report, reference is made to the high cost of jail accommodation and the public's economic interest in reducing time in jail. This is aside from the humanitarian aspect. It is hoped that this report will serve to stimulate community interest and involvement during both the custodial and the post-custodial periods.

In the hope that this report will be read not only by those professionally concerned with the custodial field but also by the general public, technical language has been avoided as far as possible. The reviews of the allegations contain many of the actual words used by the correctional officers and inmates who appeared as witnesses, with the idea of bringing the reader right into the jail. Perhaps the life and atmosphere of the Toronto Jail will thus come to be appreciated by those who have never had an opportunity to visit it or work there.



Sherman R. Day, Director of the (U.S.) National Institute of Corrections and formerly Administrator for Staff Development for the Bureau of Prisons, in a 1977 published interview in *The Third Branch*, a publication of the U.S. Federal Judicial Center, described jails as "the most overlooked and neglected area of the whole correctional system". He said that "the jail problem is a multi-faceted one. One problem is inadequate staff, staff selection, and training. In many places the officers are untrained in corrections. Another problem is the lack of systematic classification and screening of inmates to keep violent criminals separate from non-violent offenders and to determine the level of supervision needed for pre-trial and sentenced offenders. Basically, we need more research to determine what works and what is bad. Jails are very, very complicated operations . . ."

On whether judges should visit prisons, Mr. Day responded rather strongly: "Yes – as often as possible. I know of no correctional administrator who isn't anxious for judges to visit his facilities. Visits sensitize judges to conditions both positive and negative and lead to a better understanding of conditions generally." This is in keeping with the Commission's recommendation that judges interest themselves in the

STATEMENT

The main purposes of the Ministry of Correctional Services are

- (1) to carry out the legal duties imposed upon the Ministry by the courts for the protection of society, and (2) to attempt to modify the attitudes of those in its care and to provide them with the kind of training and treatment that will afford them better opportunities for successful personal and social adjustment in the community. All of our programs must be designed with prime emphasis on these purposes and carried out in such a way that they are in consonance with each other.

PRINCIPLES AND METHODS

Although methods will vary according to individual needs, as a general principle, open communication between residents and staff is of prime importance and inherent in a correctional process that seeks to modify those attitudes towards society which have led to antisocial behaviour. Attitudes cannot be changed effectively in a psychologically deprived atmosphere or through association only with others whose attitudes are similar; therefore, all staff should initiate opportunities for healthy association with those in their charge. It is equally necessary to break down as much as possible the subculture found to some degree in all institutions. The more influence the staff can have upon this subculture the greater the possibility of reducing tension, of increasing reformative potential, and of minimizing the conflict which is always likely to exist, in any institutional setting, between the aims and purposes of the population and those of the administration. Two ways in which this influence can be exerted are:

- (1) Increased communication between staff and residents.
- (2) The use of selected correctional officers as leaders in guided group discussion.

It therefore follows that staff who associate with residents, at whatever level, should be reasonably mature and adjusted socially. Their moral values should be in the main those generally acceptable to society at large and, clearly, it is essential that they themselves should have respect for the law.

In addition they should adopt an understanding attitude towards antisocial and morally repugnant behaviour and develop an ability to accept the individual as a person without necessarily approving his behaviour.

Training for all levels of staff is stressed in order to develop and maintain their attitudes in line with progressive correctional thinking and the principles emphasized in this Statement of Purpose.

The personal adjustment of the individual and the acquiring of social skills are of prime importance, and are encouraged by recent legislative changes which allow temporary absences for humanitarian or rehabilitative reasons, permitting both the acceptance of family responsibilities and the utilization of community work and training resources. Academic, vocational, recreational, religious, and treatment and training facilities of all types, both in and out of institutions, will be used to the fullest in providing as many opportunities as possible for the acquisition of skills potentially useful in post-release adjustment.

Successful reintegration into the community is the largest single factor in determining the effectiveness of any rehabilitative program. Through our after-care service, those leaving our care and reentering the community should be given appropriate assistance in this period of adjustment.

The extent of the barriers to effective communication between staff and residents is directly proportional to the size of the institution, and in planning new institutions we will aim for units with a maximum capacity of 200 for adults, and schools with a maximum capacity of 125. We recognize that it is difficult if not impossible to carry out our purposes without appropriate facilities and a well-trained staff with positive attitudes.

We lay great stress on research, and our operations are guided as much as possible by research findings; inherent in all of our operations is the principle that what serves no useful purpose should be discarded.

Toronto Jail, by serving for set periods on the proposed Toronto Jail Council (see Recommendation 1).

A growing awareness of corrections on the part of the bench is reflected in the written opinions of the U.S. Supreme Court over the last eight years. The second largest category of cases heard by that court was referable to questions involving rights of prisoners, probationers, and parolees. In the section on the law in Volume 2 of this report, the interest of Canadian courts is evident. Aside from the merits of the decisions, this is a good sign, for the law is, after all, a reflection of public morality.

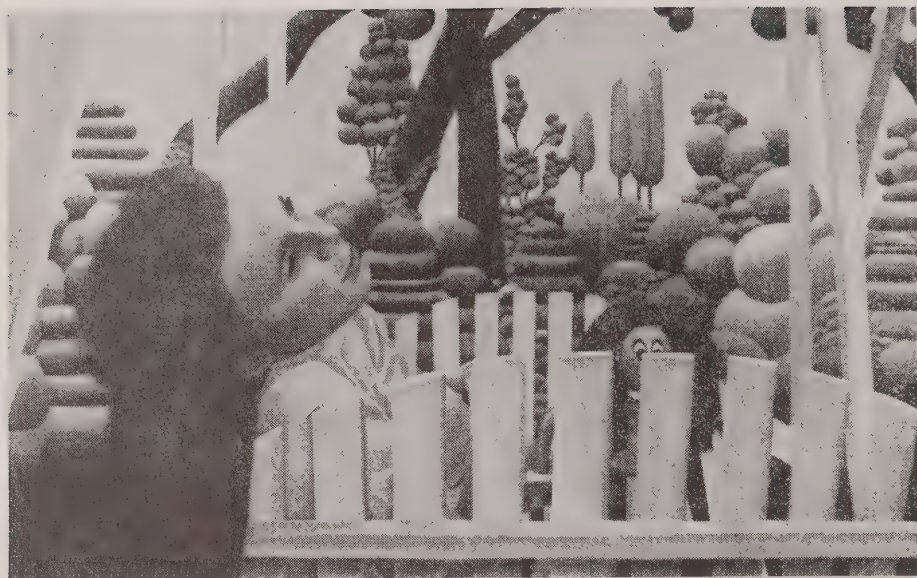
Having begun this introduction with a statement in the British House of Commons by Winston Churchill, I wish at this point to add another remark that great statesman made in the same speech: "The first real principle which should guide anyone trying to establish a good system of prisons should be to prevent as many people as possible getting there at all. There is an injury to the individual, there is a loss to the State whenever a person is committed to prison for the first time, and every care, consistent with the maintenance of law and order, must be taken constantly to minimize the number of persons who are committed to gaol."



Finally, this report should be read in the light of the Ministry of Correctional Services' "Statement of Purpose" (reproduced opposite). This statement appeared in the Minister's report for the year ending March 31, 1974. Our Commission started its hearings at the end of that year. The Statement of Purpose was repeated, without change of text, in the Minister's reports of 1975 and 1976. In the 1977 report, it did not appear. The Minister explained that "the Ministry's bi-monthly *Correctional Update* has largely satisfied the demand for the narrative information formerly contained in the annual reports". The 1977 report was, therefore, primarily a statistical survey. It is hoped that the commendable Statement of Purpose will continue to be the Ministry's minimum guideline.

The use of "resident" for "inmate" in the statement, and other references contained therein, might appear to make it more applicable to post-sentence institutions, but its general principles are equally relevant to the Toronto Jail with its mixed population of remand and short-term-sentenced inmates. Certainly, if its tenets had been observed by the staff at the jail, there would have been fewer incidents for this Commission to investigate.

Observations on the Inmate, the Line Officer, and the Jail



"Midsummer Day Dream", a painting by Michel Pellus, reproduced by courtesy of the Prison Arts Foundation, Brantford.

The Inmate

In a prison the check of the public eye is removed; and the power of the law is spent. There are few fears, there are no blushes. The lewd inflame the more modest; the audacious harden the timid. Everyone fortifies himself as he can against his own remaining sensibility; endeavouring to practise on others the arts that are practised on himself; and to gain the applause of his worst associates by imitating their manners. [John Howard, 1784]

Jails by their very nature create tensions. The tensions, if they are not properly managed and resolved, can result in confrontations and collective disturbances. The isolation from the outside world and the jail atmosphere tend also to foster negative attitudes towards the correctional staff and other inmates.

Evidence given at the Commission hearings indicated that such matters as pending court appearances, bad news obtained from visitors, conditions of overcrowding, mental illness, drug influence, the presence of sex offenders, harassment, at times, by some officers or other inmates, the physical structure of the jail, the general idleness and boredom, the consequences of insufficient medical staff, experiences of segregation and admitting-area problems, the unsettling effect of involuntary transfers (both within the jail and between institutions) – all these factors can, directly or indirectly, contribute to tension and violence.

There also exist peer group pressures among inmates in the Toronto Jail, as in other such institutions, to conform to unwritten codes of conduct. Some correctional staff and some inmates are conditioned into accepting opposing values and attitudes, making effective communication difficult.

Evidence presented to the Commission suggests that violence and tension are linked with particular areas of the jail. The impact of the loss of liberty is strongly felt by inmates upon arrival in the admitting area, and it is not surprising that this area was at times the scene of physical encounters. The segregation areas and the routes taken to reach them were often the scenes of similar difficulties. Segregation – a prison within a prison – means a further loss of liberty for the inmate. Certain corridor areas used for the transfer of inmates to and from court (Corridors 7 and 8) were shown to hold a great potential for trouble.

Drug abuse by inmates caused or contributed to problems in the jail. Although there was evidence that drugs occasionally circulated within the jail, more frequently the problems arose from drugs that were obtained or ingested prior to the inmate's entry into the jail.

It is a matter of concern that individual outbreaks of violence, when they do occur, be contained and do not spread among the inmate population. It therefore is necessary to provide correctional officers with adequate training for dealing effectively with such problems. The success of any program directed at reducing violence and tension at the Toronto Jail depends on many factors, among them the better selection and training of correctional officers, reduction of overcrowding, a better system for classifying inmates, organized activities for inmates, and impartial grievance procedures. These and other factors are the subject of some of the Commission's recommendations.

CLASSIFICATION

Inmates at the Toronto Jail are classified essentially into five main categories: those awaiting trial by the Provincial Court or awaiting a preliminary inquiry by that court, those committed for trial in a higher court, those awaiting appeal, those serving sentences (usually short ones), and those awaiting transfer to other institutions (provincial or federal). Individuals sentenced to longer terms of imprisonment, but under two years, are assigned to other provincial institutions, and those serving terms exceeding two years are transferred to appropriate federal facilities. Some inmates who had appealed their convictions or sentences were kept in the Toronto Jail for extended periods pending the outcome of their cases.

Historically, the classification of inmates has been a concern of those advocating prison reform. It has been observed for over 100 years that unsatisfactory classification of inmates can have a detrimental influence, particularly on younger inmates, by exposing them to the more hardened offenders. For such youthful persons, jails have at times been referred to as training schools for crime. Not all inmates of the Toronto Jail require maximum security custody. The limitations presented by the physical structure of the jail, and the lack of sophisticated assessment or classification procedures, continue to cause a mingling of inmates who should not be

housed in the same corridor. Adequate classification of inmates in the Toronto Jail has also been complicated by the high population levels, which frequently exceed designed capacity, the high rate of inmate turnover, and the lack of sufficient specialized classification personnel.

Consideration should be given to having classification assessment corridors or wings, as is done at some other institutions that we visited — Bordeaux Jail at Montreal and the Ontario Correctional Institute at Brampton. The inmate, after a period of being tested, observed, and documented, is then assigned to an appropriate “permanent” corridor. The assessment period would vary from, say, 24 hours to one week, depending on the contemplated length of stay of the inmate at the Toronto Jail.

Types of inmates requiring special classification and accommodation in the jail include informers, arsonists, sex offenders, violent offenders, and those with drug and psychiatric problems. Incoming inmates are usually assigned according to such factors as offence, record, age, state of health, and bail requirements. However, this classification has been impeded by inadequate space and facilities. It was noted at the hearings that inmates with behavioural problems were sometimes sent, either individually or in groups, to the Toronto Jail from other correctional institutions. From allegations received by the Commission, it appeared that these problems were often merely deflected rather than solved. Another problem was presented by the use of the Toronto Jail as a staging point for inmates being transferred from one institution to another.

Attempts to implement adequate classification procedures appear in some instances to have been frustrated by circumstances.

The impact of the change in status that occurs with imprisonment seems to be more actively resisted by the younger inmate with less institutional experience. To be effective, classification must consider not only the inmate's needs but also those of the correctional system, the two being closely related.

YOUNG OFFENDERS

Canadian statistics reveal that the young adult offender (16 to 24 years of age), while comprising only 24 per cent of the total adult population (over 16 years of age), accounted in 1971 for over half of all indictable offences. This indicates a trend in corrections to a younger group of inmates. The increase in youthful criminality can be attributed in part to a more permissive society, the breakdown of the family, the drug cult, and the underemployment of youth. The effect of these changes has been to increase the number of young offenders in the Toronto Jail.

Many young inmates at the Toronto Jail are under 20 years of age, have a previous record of offences, and possess an unsatisfactory employment history. The evidence given at the Commission hearings indicated that the younger inmates at the jail were more likely to be noisy, militant, disrespectful

ful, and generally disruptive to the jail routine than the older inmates. Such inmates were usually confined to the jail's "youth corridors" in the old part of the jail.

Confinement appeared to create particular adjustment problems for younger inmates, and it was generally reported that their "hyperactivity" was capable of producing a continuous state of commotion within their area. One correctional officer reported that discipline problems arose in the youth corridors because "just too much energy was tied up in one small place".

An inmate with many years of institutional experience gave an "insider's" view of the problem and served to illustrate the characteristics of the current young offender. (See the brief of Walter McCullough)

Inmate McCullough, in the course of his oral evidence relative to one of the allegations, said:

Unlike the old type of criminal who started out in one type of crime and stayed with that racket, these young criminals are taking up weapons and involving themselves in crimes of violence (mugging, assault, rape). Their violent opposition to institutional rules and regulations is an extension of this. [It is] their social protest, their life-style.

The biographies of many inmates who were in custody at the Toronto Jail revealed that they "graduated" through a series of training schools, jails, reformatories, and other similar institutions without being effectively "corrected" or rehabilitated. Everything possible should be done to break this unproductive cycle. Some suggestions will be found elsewhere in this report, in the accounts of the allegations, in the discussions of other topics in this section of the report, and in the Recommendations.

The question of diversion programs to help keep young offenders out of jail is more urgent than ever and is considered under its own heading.

For those young offenders for whom incarceration is necessary for reasons of public safety, adequate facilities should be provided to meet their vocational and recreational needs. In the past, because of accommodation problems at the Toronto Jail, these have been largely unsatisfied. The tensions at the Toronto Jail were in no small part the product of a failure to meet these needs.

In the final analysis, short-term custody and detention should mean just that, and if prolonged incarceration is necessary the young offender should be promptly relocated in more appropriate long-term correctional facilities.

SEX OFFENDERS

In the social system that exists within the Toronto Jail, an inmate is accorded or denied social status, prestige, and safety by his peers in relation to such factors as his previous offence record, his institutional reputation, his physical prowess, and his adherence to the "inmate code" while in the institution.

In the hierarchical ordering of inmates by themselves, those accorded the lowest status are the informers and the sex offenders.

Evidence presented during the hearings showed that the inmate sub-culture's condemnation of sex offenders can result in their being assaulted. In some other institutions it has resulted in death.

The most lowly regarded of all sex offenders, according to inmate and correctional officer evidence, is the child molester, and such an individual is therefore definitely at risk when identified and exposed to the general inmate population. Even in cases where steps were taken by institutional staff to place sex offenders in protective custody, the sex offenders' reputations would circulate through the jail on the inmate "grapevine". It was even alleged that this was sometimes aided by correctional officers. One rationalization offered at the hearings for the dispensing of informal "inmate justice" was that some inmates felt that sex offenders were treated too leniently by the courts. Another explanation might be that sex offenders offered a convenient target for those who considered themselves rejected by society.

Attempts made at the Toronto Jail to adequately classify and separate sex offenders were complicated and at times frustrated by the limitations in the physical structure of the jail, by the turnover of inmates, and by overcrowding. Evidence revealed that both homosexuals and heterosexuals charged with sex-related offences were housed in the same corridor. The danger in this is that inmates with a history of homosexual offences might attempt to practise their craft on unwilling inmates. As it is, there is such a danger among the general jail population and the correctional staff must be ever alert to such possible attempts.

FEMALE OFFENDERS

With the recent changes in the role of women, it is expected that there will be a corresponding increase in the female crime rate. As female inmates are a minority group in the correctional system, careful attention is necessary to ensure that their specialized needs are met. Jail and other detention facilities must function in such a manner as to provide for the female inmate and at the same time maintain an adequate level of custody and control.

While the Toronto Jail could provide relatively short-term custody for such inmates, they should be transferred to a more therapeutic milieu such as that offered by the Vanier Centre for Women at Brampton.

It should be noted that, of the more than 120 allegations brought against the jail's correctional staff, none involved female inmates. This situation might have been due to the fact that female inmates were housed in separate and less crowded quarters, had good occupational and recreational facilities, and were treated considerably by a proportionately larger and less harassed female correctional staff.

When a disruption in jail routine occurred, it was usually handled by the

female officers, but, if additional help was required, male officers were called in.

The Commission was advised that it was proposed to discontinue use of the Toronto Jail for female inmates by the end of 1977 and to house them in the new Metropolitan Toronto West Detention Centre. This did, in fact, take place.

ATTITUDES OF INMATES

Inmate attitudes are influenced not only by the environmental factors and experiences encountered in a custodial institution, such as the Toronto Jail, but also by past life experiences in the community at large. An inmate's response to the process of "prisonization", or his assimilation into the inmate culture in the jail, is related to his previous offence record, his age, and his institutional history.

The literature surveyed amply supports the Commission's experience that today's inmates are generally younger, better educated, more militant, more articulate, and more rebellious than earlier generations of offenders.

An examination of the allegations studied indicates a sporadic confrontation between some of the younger members of the new permissive society and some of the more discipline-minded officers at the Toronto Jail. Our statistical survey shows that 43% of the inmates involved in allegations of use of unnecessary force were between 16 and 20 years of age, and 84% were 28 years old or younger.

While some inmates reported that they welcomed the more personal contact resulting from the design of the cell areas in the old section, others felt the layout of the new wing provided more personal security and lessened inmate/correctional officer contact. The number of incidents was proportionately smaller in the new section of the jail. This augurs well for the two newly-opened detention centres in the Metropolitan Toronto area.

Complaints were set out during the hearings which revealed some negative attitudes on the part of inmates towards correctional staff and institutional authority. These complaints arose from such factors as the unsatisfactory classification of inmates, overcrowding, the mismanagement of personal property, the absence of a structured vocational and recreational program, the lack of effective complaint procedures, the inconsistent enforcement of institutional rules (such as those governing the use of "sir" when addressing a correctional officer), the inadequacy of explanations accompanying some orders, the seemingly capricious assignment of inmates to segregation, the alleged use of threats and unnecessary force by correctional officers, and the danger of being assaulted by other inmates.

It was observed during the Commission hearings that both inmates and correctional officers in the Toronto Jail at times engaged in "head games", or minor forms of harassment, against one another. Such activity might be the product of tension and boredom, experienced particularly by the younger

inmates, or behaviour consciously engaged in to secure some desired end such as the redressing of a personal affront. This process of "gamesmanship" resulted, on occasion, in a physical confrontation between inmate and correctional staff.

The target was often a new or inexperienced correctional officer. Such officers, lacking effective training, might be hard-pressed to distinguish between a genuine request or response and a "put-on".

The attitude of the older and more mature inmate was to do his time without unnecessary hassle.

Correctional officers' training should include courses to help them to understand and deal effectively with the "games" process.

SELF-INFLICTED INJURIES AND SUICIDE

The stress of institutional confinement can produce suicidal or self-destructive behaviour in some inmates. Such activity may also be prompted by a desire for attention, or it may be an effort to secure some otherwise unobtainable ends.

The evidence indicates that such self-destructive responses were not common in the Toronto Jail and those that did occur were usually associated with individuals with serious personality problems. The effect of confinement, particularly in segregation, accentuated such tendencies in certain inmates.

Recent events at other institutions show that an act of attempted self-destruction, such as arson, can pose a direct threat to staff and inmates alike. For this reason and as a result of a report by B. A. Bouser, Deputy Fire Chief of Toronto, dated February 28, 1977, a number of changes were made at the Toronto Jail. These were seen during our last visit, in October 1977.

Self-inflicted injuries can occur in a jail in the absence of effective supervision. This therefore imposes a duty of vigilance on correctional officers. It was alleged that injuries were at times self-inflicted with the intention of charging correctional officers with mistreatment. It was also alleged that correctional officers mistreated inmates and then claimed that the inmates' injuries were self-inflicted. This posed a serious problem of credibility for the Commission and often necessitated extensive examination and cross-examination and the calling of a large number of witnesses. Even then the answer was not always readily arrived at.

RIGHTS OF INMATES

With the liberalization of corrections over the last two decades, there has been an increase in inmates' demands for better guarantees of their civil

rights and privileges. Under earlier, more authoritarian, systems, inmate rights were at times seen as contrary to the primary goals of custody and control. The 1970s have witnessed the creation of inmate committees in some institutions as well as attempts to form inmate unions. Neither of these would be appropriate at the Toronto Jail.

Some of the inmates at the Toronto Jail expressed the sentiment that their "rights" had little real meaning. For example, the actual exercising of the right to complain formally about alleged mistreatment by correctional officers or to appeal orders given was said to be so difficult and open to retaliation that inmates rarely complained to those in authority. The self-policing by the correctional administration apparently gave some inmates the impression that they could not fight the "jail establishment". This, in turn, served to perpetuate the "we/they" syndrome.

Inmates should, upon admission, be fully informed of their rights as well as their responsibilities while in the Toronto Jail. This should be done by way of notices posted in the admission area and by the distribution of printed cards clearly and concisely setting out the rules of the jail, and the inmates' rights and means of redress. It appeared to the Commission that many inmates were not well informed about these important matters. While certain inmates were inclined to "play games" with the jail's correctional staff through attempted overexercise of their rights, having the same properly and clearly spelled out would reduce this abuse.

A comprehensive revision of jail rules and regulations and a setting out of inmate rights should clearly differentiate rights from privileges, and pranks from chargeable offences. It has been said that the cost of withholding an adequate measure of human dignity and self-respect from inmates is ultimately paid by society.

Elsewhere in this report will be found documentation of the rights of both inmates and staff in the Toronto Jail (see supplement on the law in Volume 2).

SOCIAL SERVICES

Social workers employed as classification counsellors perform a variety of services, primarily in response to requests by inmates, such as making telephone calls, obtaining specific information related to personal and employment problems and release dates, and, on occasion, dealing with inmates' complaints. A staff social worker indicated that there was insufficient time for in-depth counselling, since she regularly held 25 to 35 interviews a day. The Commission was also informed that interviews with counsellors were not part of the regular admission routine. Most interviews with social service staff were held as a result of request forms submitted by inmates. One counsellor said it was his practice to walk about the jail and make himself visible and available. He said that inmates would call out to him, "Oh,

please, sir, can I speak with you for a minute?" Chats were often held right at the grille, in the corridor outside the cell area, or in the rotunda. Occasionally, a correctional officer concerned about an inmate in his corridor would approach one of the counsellors and ask that the inmate be seen as soon as possible.

The following points were made by James Carson, an experienced social worker:

- (a) Emphasis should be placed on providing access to counselling services in an informal way and without undue delay.
- (b) The reluctance of some troubled inmates to fill out a request form or to explain the problem to correctional officers in the presence of other inmates can lead to an inmate not receiving the assistance he may urgently need, with the consequence that the inmate may become upset, with a resulting increase of tension in the jail.
- (c) The correctional officer has a key role in support of the counselling staff through providing advice to inmates on rudimentary matters; informing inmates of the functions of the available counselling service; assisting inmates in a sympathetic way in filling out request forms; and alerting counsellors or medical staff about inmates who appear to be seriously troubled or who are behaving in an erratic or irrational way.

If mutual understanding and co-operation between counsellors and correctional officers are to be improved, social and psychological counselling should be included in the correctional officers' training program and provision made for regular meetings between counsellors and correctional officers. Involvement of correctional officers is desirable as a means of increasing their understanding of inmates' personal problems and of the positive role counselling can play.

Social workers are, understandably, in a difficult position with respect to inmate complaints alleging mistreatment by correctional officers, or to a situation, such as did occur, where a social worker was present and it appeared to her that an inmate was being threatened by a correctional officer (see the Benn allegation).

In the past, social workers have expressed reluctance to report complaints of this nature because of the inmate's concern that he might be subjected to retaliation or because of the social worker's desire not to prejudice a good relationship with the correctional staff. The problem can be resolved by making it mandatory to report in writing to the Superintendent all allegations of excessive use of force or mistreatment. It then becomes the Superintendent's responsibility to conduct an investigation.

In the Benn incident, it was alleged by a correctional officer that the social worker had interfered with the conduct of his duties by shouting at him when he was disciplining the inmate. As a result of this incident, the social workers were advised that the proper action is to report such an incident to the Superintendent.

Consideration might be given to making an interview with a social worker part of the admission routine. This would assist in the classifying of inmates

and their allocation to appropriate corridors. Alternatively, interviews might be carried out by selected volunteer workers.

It is considered desirable that more extensive counselling be made available, particularly to younger inmates. This counselling should stress the reality-therapy approach, in which the inmate is taught to understand that unpleasant things happen to him when he breaks the law. Improved interviewing facilities for social service workers should be provided as soon as practicable.

Some Toronto Jail social workers indicated that they were frustrated with certain professional aspects of their work. They considered themselves "out of the mainstream, in a backwater, as far as promotion is concerned". A lack of professional development opportunities, such as conferences with counsellors in other correctional institutions, contributed to their feeling of stagnation, they said. They complained that because they had so little time to work with inmates it was difficult to make significant progress with them. There was also a feeling that their services were undervalued.

The departure at the end of 1975 of three of the four classification staff members at the Toronto Jail to take employment with the office of the Ontario Ombudsman (another government agency) was a sign of professional frustration even though the higher salaries offered were a significant factor in their decision to leave the jail.

CHAPLAIN SERVICES

The resident chaplain, in addition to carrying out his religious responsibilities and co-ordinating the services of representatives of other denominations, provides counselling to inmates. He helps them by making telephone calls, delivering messages, and discussing personal problems. His interviews often involve both personal and spiritual counselling. The chaplain can, on occasion, be effective in crisis-intervention situations.

The Commission recognizes that the chaplain makes a significant contribution to the welfare of the inmates in the Toronto Jail.

MEDICAL SERVICES

When he gave evidence in January 1975, Dr. Peter Dubelsten, Chief Medical Officer at the Toronto Jail since 1971, described the medical staff and facilities of the jail. He stated that there were seven doctors and one dentist on staff. The full-time doctors were Dr. O. B. Dickinson and Dr. Kenneth Starke. There were also a part-time doctor and three part-time psychiatrists.

The nursing staff consisted of 13 full-time nurses. In addition, there were one full-time pharmacist, two part-time pharmacists, and one X-ray technician.

The medical facilities were divided into three separate areas: male surgery, female surgery, and psychiatric wing. The general medical offices (surgery) were in the old part of the jail on the main floor. At the time when jail plans were filed with the Commission, these consisted of a medical examination office, a laboratory, a nurses' station, and a pharmacy. It is a credit to the medical staff that they were able to carry on as well as they did with these facilities. With this very limited professional staff, it was not possible to have a doctor always on duty in the jail. In fact, after 4:30 p.m. doctors were only on emergency call. There were, at times, as many as 800 inmates in the jail. Serious illnesses, heart attacks, or epileptic seizures might occur and there were times when unruly inmates required tranquilization. A nurse could not administer medication without a doctor's approval, and there appeared to be a reluctance on the part of the nursing staff to telephone a doctor after hours, with the result that the matter was often deferred to the following morning.

Even with the reduction of the inmate population in 1977 as a result of the opening of two new detention centres in Metropolitan Toronto and the closing of the old section of the Toronto Jail, it is still recommended that a medical doctor be kept on duty in the jail at all times. Consideration might be given to arranging a rotation system whereby the major downtown hospitals would provide interns or residents for night duty.

The X-ray department was in the new section of the jail and contained modern equipment. This equipment was used mainly for routine chest X-rays. Since there was no staff radiologist, other X-rays were referred to the downtown hospitals. The proximity of these hospitals enabled the Toronto Jail easily to avail itself of this and other hospital services. Inmate patients requiring hospitalization had to be guarded by correctional officers round the clock while away from the jail.

Since Dr. Dubelsten's original evidence, the psychiatric facilities (often referred to as 1A hospital) have been moved from the first floor of the new wing to the fourth floor. This has provided more and better accommodation.

The Commission feels that serious consideration should be given to establishing a psychiatric facility apart from the Toronto Jail but close to it. The available parts of the nearby Riverdale Hospital might be adapted and used for this purpose. This facility, professionally staffed, could be used for non-jail purposes as well as for court assessments and the housing of inmates requiring psychiatric treatment and care. Many psychiatric referrals now sent to the Toronto Jail are short-term ones. The relocation of the facility would expedite the submission of reports to the courts and eliminate the placing of unsentenced persons in a jail environment.

Under current regulations, a medical examination is mandatory for every inmate as soon as possible after admission to the jail. Since the Commission hearings began, medical examinations have been conducted whenever an inmate is transferred to or released from segregation, and daily medical visits are made to the segregation areas. All inmates who allege that they

have been injured by correctional officers are now receiving medical examinations. Written reports of these examinations should be submitted to the Superintendent. When an inmate claims to be unable to perform certain duties by reason of sickness or other disability, he is examined by a medical officer, who determines his fitness for that or other work.

Full records of all examinations should be kept, indicating the time of the examination. There should be mandatory reporting in writing to the Superintendent of all allegations of assaults between inmates as well as assaults by correctional officers on inmates, or vice versa.

The general provision of treatment to inmates of the jail, primarily in response to surgery requests, is considered satisfactory. Increased emphasis could be placed on teaching inmates about preventive measures — caring for their own health along the lines of the program developed at the Ontario Correctional Institute in Brampton. Their daily visits to segregation areas, already referred to, permit the doctors to assess the condition of the inmates there, and determine whether any of them should be released for medical or psychological reasons. The doctor's report is then sent to the Superintendent.

There has been a significant improvement in the psychiatric treatment available to Toronto Jail inmates since the beginning of the Commission hearings. Consideration should, however, be given to a further expansion of psychiatric services, including having a full-time psychiatrist on staff during the day and providing on-call psychiatrists during the evenings, nights, and weekends. The off-hour services might be contract rather than staff. If the suggested psychiatric facility is established, then there should not be any personnel problem. It was pointed out to the Commission by one of the medical witnesses that inmates suffering from physical illnesses or injuries received swift and expert medical attention, including referrals to specialists in nearby hospitals, but that this was not always the case when inmates exhibited symptoms of mental illness.

One of the problems in an institution such as the Toronto Jail is that calls for medical and nursing services by inmates are at times just a diversion to get out of the boring surroundings, and this, of course, overtaxes the services. The Commission was impressed by the approach taken by the medical staff at the Ontario Correctional Institute in Brampton in attempting to train inmates in proper health habits so that they can look after themselves, both in the institution and "on the street".

AUXILIARY SERVICES

For those who look to the correctional system to accomplish its objectives of deterring the inmate from future unlawful conduct and ultimately bringing about his rehabilitation, there can be many disappointments, for the very act of incarceration can have some negative results upon individuals. Increasingly, it is recognized that an offender's rehabilitation must involve

a serious commitment on his part. To assist him it is necessary to have the understanding, empathy, help, and guidance of private agencies and public-spirited citizen volunteers wherever possible. The majority of offenders in Ontario are under 23 years of age, and it is this group that offers the best long-term hope for rehabilitation. This was clear from evidence given by both correctional officers and inmates.

In addition to expanded probation and after-care services provided by the Ministry, and the use of the Temporary Absence Program, there is greater participation today by the community at large. The aim of all these is to foster and develop attitudes and life skills that will allow individuals to readjust successfully to community life upon release. Toronto Jail inmates have benefited from the efforts of various organizations and groups such as the John Howard Society, the Elizabeth Fry Society, the Salvation Army, Alcoholics Anonymous, the Fortune Society, Neighbourhood Legal Services, Manpower-Rotary, and Volunteers Anonymous, all of which have sought to make a contribution to easing the rigours of jail confinement and helping to bring about inmate rehabilitation. New strides have also been made in the provision of "halfway house" facilities to further aid in the former inmate's readjustment.

In England, I was very much impressed with a day training centre where inmates recently released from jails and penal institutions took part in occupational therapy and, through "rap sessions", learned where they had made mistakes while living in the outside society. They not only learned to recognize their weaknesses but also to cope with and overcome them.

The social isolation of corrections from the rest of society, characteristic of earlier days, has been forced to give way to new treatment and rehabilitative approaches. Unfortunately there are still vestiges of resistance in some correctional personnel with strong custodial-oriented attitudes. It is hoped that the Ministry's training programs will eventually eliminate such lingering doubts. The shift towards community-based corrections in the 1970s seeks to involve the community to some greater degree in solving a social problem that began in the community and cannot be solved through custody alone.

Institutions such as the Toronto Jail were not designed to effect the rehabilitation of major offenders. But I am pleased to report that, since the Commission's inception and the bringing to light of certain conditions at the jail, great progress has been made in instituting programs to assist in this regard, as well as to reduce the boredom and resulting tension of jail life. Credit for this change must be given to the Ministry and to Superintendent Taylor and his staff who recognized the problem and were prepared to implement programs, and to Mrs. Gwen Heffernan, the Co-ordinator of Volunteer Programs at the Toronto Jail who when she assumed that post in the latter part of 1975 gave it the required impetus and direction. Nor should those members of the public who have participated be overlooked. Many of them were and always will be concerned and willing to help. Unfortunately some of the earlier efforts were wasted because there was no well organized or fully structured program. Recently, the mass media have helped in bringing the light of publicity to the problems of jails and correctional services. That

concerned segment which is imbued with public service and devotion has responded. This is not only morally right but also economically sound. The latter aspect is considered later in this section of the report.

Reproduced below is the text of a memorandum from Mrs. Heffernan setting out the volunteer programs initiated at the Toronto Jail since September 1975. I am also pleased to report that, in a visit to the Toronto Jail on October 24, 1977, I saw some sporting equipment in the corridors that could be used by inmates for exercising and to work off tension. As of that date, it was proposed to discontinue the use of the old section of the jail for inmate housing by the beginning of 1978. The additional space so made available might be allotted for exercise and recreational purposes. When such facilities are available a sports and recreation officer could be engaged, as in some other institutions in Ontario and elsewhere. Planning and running a sports and recreational program should be considered a full-time duty and not one to be assumed on a part-time basis along with corridor tasks. The type and number of the inmates making up the Toronto Jail population warrant this. Correctional staff should also have access to these facilities after hours.

Whether or not the old building of the jail continues to be used, the provision of increased space and facilities for sports and recreation should receive high priority.

The following memorandum is relevant on this topic.

October 20, 1977

VOLUNTEER PROGRAMS – TORONTO JAIL

PROGRAMS INITIATED SINCE SEPTEMBER, 1975

Counselling Programs

There are several agencies which send counsellors to the jail to help inmates. Although professionals and volunteers are included among their staff, they serve in the jail in a voluntary capacity.

John Howard Society

One volunteer staff and two Ryerson Social Service workers visit the jail Tuesdays and Thursdays to interview and counsel inmates.

Fortune Society

One worker visits the jail bi-weekly to aid inmates to obtain employment on release.

Teen Challenge and Browndale Re-entry

Maintain contact with their clients who are in the jail to arrange accommodation and employment on release.

M-2

Is a non-sectarian organization of citizens concerned with men in prison.

M-2 sponsors maintain one-to-one contact with inmates incarcerated at the Toronto Jail.

Remedial Reading

Four volunteers teach reading at the Toronto Jail. Three teach one half-day per week and one teaches a full day each week. Twenty-five to thirty inmates per month benefit from this program. Some teachers continue lessons when

inmates return to the street. Arrangements are being made for community programs to take over when an inmate is released.

O.I.S.E. – Reading Skills Assessment Program

Two masters students and one doctoral student did field work at the jail this summer under the direction of Dr. Anne Keeton, an O.I.S.E. professor. They prepared an assessment kit for use by the teachers who are now able to assess quickly the level of the inmate's reading ability.

GROUP PROGRAMS (INITIATED SINCE 1975)

Quaker Program

Sponsored by the Quakers' Jails and Justice Committee. A group of Quaker volunteers come to the jail every Friday afternoon to hold two meetings – one at 1 p.m. and one at 3 p.m. Up to sixty inmates attend. The format is a speaker followed by group discussion. One recent topic was 'Non-violence'.

Manpower-Rotary

Come to the jail once a month to conduct a pre-employment program for inmates within a short time of release. They set up interviews with Manpower counsellors and the volunteers from the Rotary Club teach interviewing techniques.

Yoga

Programs are held once weekly in both the Old and New buildings.

St. Vincent de Paul Society

Shows movies to the kitchen workers every second Tuesday evening; approximately fifty inmates attend.

National Parole Program

A National Parole officer comes to the jail monthly to explain the Parole Act and regulations and to help inmates who wish to apply for National Parole.

Youth Corps

The Youth Corps attend the jail once a month on a Friday evening as an extension of the Chaplain's Program. They bring speakers, films, music and drama. Ten to twelve volunteers take part along with 25-30 inmates.

Men's and Women's Health Programs

These are conducted by the Hassle-Free Clinic. They present a series of programs on birth control, V.D. education and drug abuse.

Concerts

Volunteer groups present concerts in the Chapel in the winter and in exercise yards in the summer.

The Women's Art Program

Sponsored by the Elizabeth Fry Society, has two art teachers at the jail each Friday morning to conduct art classes for women inmates.

PROGRAMS STARTED BEFORE 1975 AND STILL OPERATING

A.A. Programs

In Old Building – held in Chapel each Wednesday evening – 25-30 inmates attend. In New Building, since January, 1976, 10-13 inmates attend.

Thursday Night 'Rap Session'

A community based group of volunteers brings in speakers to acquaint the younger offenders with community resources.

Focus

Members of the Foundation Church attend the jail on Wednesday afternoons. Twenty to 25 inmates attend this group session aimed at improving inmates' self-awareness.

The Elizabeth Fry Society

Has a social worker coming to the jail every Thursday to help women make plans for release. The Society also presents movies, other entertainment and educational programs every Wednesday evening.

Gwen Heffernan
Co-ordinator
Volunteer Programs

REHABILITATION

In corrections, inmate rehabilitation is more frequently a sought-after objective than an accomplished fact. Attempts by correctional authorities at reform through punishment have been, historically, less than totally successful.

The Toronto Jail's function is essentially custodial. The implementation and execution of a formal and structured rehabilitation program is outside the scope of its role. Nevertheless, the correctional officers of the Toronto Jail have an important part to play in the field of rehabilitation. Their attitudes towards the inmates, the empathy of their day-to-day contact with them, can have a positive result. For example, the way an officer talks to or answers an inmate can arouse resentment or command respect. The inmate prizes his personal dignity highly and readily magnifies any affront to it. The correctional officer represents, in the mind of the inmate, the community beyond the prison walls. His behaviour with the inmate therefore inevitably helps to form the inmate's attitude towards society and so may make a strong contribution to rehabilitation. A review of the allegations examined by the Commission will show how tenuous and volatile the atmosphere is, and how delicate the relationship between correctional officer and inmate, in this jail particularly. A word or gesture can make or break the bridge to rehabilitation. This underlines the importance of the proper selection and training of correctional officers for the Toronto Jail.

Efforts to effect a structured rehabilitation program at the Toronto Jail were in the past frustrated by such factors as other demands on the time of the correctional staff, resistance by certain types of officers who saw their role as a purely custodial one, a lack of specialized facilities and personnel, high inmate turnover, overcrowding, and a lack of incentives for inmates to engage in such activity.

The two new detention centres that have been created for Metropolitan Toronto offer a greater potential for the rehabilitation of offenders, since many of the deficiencies characteristic of the province's older jails have been

effectively remedied. It is hoped that, by reducing its population by employing the old wing only for services and for recreational and vocational purposes, and not for housing accommodation, the Toronto Jail will be enabled to make a similar contribution. Rehabilitation requires a commitment on the part of the inmate as well as a similar commitment, rather than just lip service, on the part of the officers responsible. Failure on either side to make the necessary commitment can only perpetuate the "revolving-door" cycle of recidivism and the further waste of human resources.

Although valuable preparatory work for rehabilitation can be done by the correctional officer and the inmate within the jail, it is outside in the community that the main work of re-establishing the former inmate must be done.

To be practical about the matter of rehabilitation, it must be recognized that there are some inmates who are hardened criminals, and that it is necessary, for the protection of society, to keep them in custody for long periods of time. With many of these inmates, it is of little practical value to talk of rehabilitation within the ambit of the relatively short time they spend in the Toronto Jail while awaiting transfer to federal penitentiaries or to provincial institutions where they will be spending rather lengthy periods of confinement. But, even so, these persons must be handled courteously (if firmly) and not harassed in the Toronto Jail, so that the principles of rehabilitation are not compromised.

The Line Officer

GARY WILLIAM STEWART DASSY

There is so much good in the worst of us,
And so much bad in the best of us,
That it hardly becomes any of us,
To talk about the rest of us. [Edward Wallis Hoch, 1849-1925]

There are five reasons for making Gary Dassy the subject of a separate section of this report.

Firstly, it was he who made the original allegations of “guard brutality” that eventually led to the creation of this Royal Commission with its mandate to inquire into and report upon, *inter alia*, those allegations.

Secondly, to consider the validity of Dassy’s charges one should look at his background, motivation, and character.

Thirdly, one should consider Dassy’s own conduct towards inmates, his fellow line officers, and his superiors.

Fourthly, one should ask whether Dassy was a true product of the correctional system or an exception to it.

Fifthly (and flowing from the fourth reason), does Dassy point up any lessons referable to the other terms of our inquiry, namely, the recruitment, selection, supervision, training, and duties of correctional officers?

Gary William Stewart Dassy was born in London, Ontario, in 1942. He completed Grade XI and part of Grade XII. On leaving school, he enlisted in the Queen’s Own Rifles of Canada and served for four years as a rifleman.

His military training was that of an infantry soldier, including weapons training and unarmed combat. For a period of approximately a year, he performed military police escort duty, taking prisoners from No. 6 Personnel Depot in Toronto to the Service Detention Barracks at Valcartier, Quebec.

Subsequent to his release from the Canadian Army, he held a variety of positions, including those of service worker for the Consumers' Gas Company and bouncer for a hotel in Scarborough. He worked for short periods for Triangle Conduit and Cable (Canada) Ltd., and the City of Toronto. He was hired by the Toronto Jail on April 10, 1974, and released on August 24, 1974.

Dassy's military record reflected a number of disciplinary charges. He served 117 days confined to barracks and spent 30 days as an inmate in a military detention barracks. He claimed that he left the army for medical reasons as a result of a leg injury. There is some indication that he was released from some of his previous jobs because of unauthorized absences.

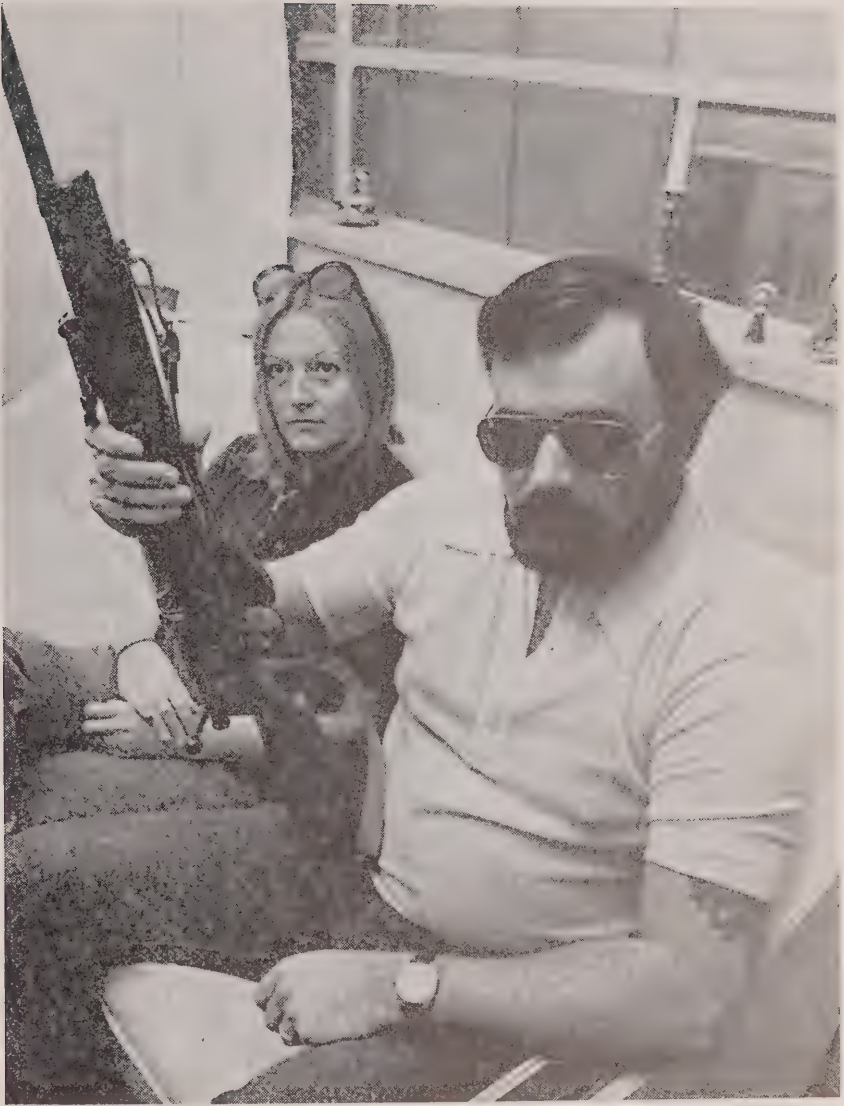
At the time of his initial employment with the Toronto Jail, Dassy was a married man with three children. In July 1974, during a farewell staff party for departing Superintendent Gerald Whitehead, he met Jane Mannerholm, a registered nurse employed by the jail. He started living with her shortly thereafter. His wife began divorce proceedings and according to a search of court records obtained her Decree Nisi on April 18, 1975, and a Judgment Absolute on July 25, 1975. A search of other records indicated that on March 19, 1975, Dassy, describing himself as a bachelor, married Jane Mannerholm. Tragically, the following summer, Miss Mannerholm died.

At the time of his hiring by the Toronto Jail, Dassy was 32 years old, 6 foot 2 inches tall, and weighed 240 pounds. He projected size and forcefulness and would be likely to frighten or intimidate smaller or younger persons by his strong and aggressive appearance and manner.

Dassy's testimony indicated that he received little or no training for his job as a correctional officer. He completed only three of the 10 written assignments of the now discontinued Ministry of Correctional Services 26-week correspondence course. In addition, he made reference to four days of unstructured, in-service training. He was dismissed for alleged inadequate performance, failure to complete the correspondence course, and unauthorized absence from work.

When his application for rehiring was refused, he threatened to go to the press and provide information about brutality in the jail. His allegations resulted in the establishing of this Commission. Dassy himself testified on 12 occasions, providing, in whole or in part, 12 of the 120 volumes of evidence given at public hearings. His testimony occupied the first weeks of the hearings and he remained present for much of the subsequent testimony. After some of the novelty had worn off, and when he was no longer "front and centre" and the object of media attention, he had an opportunity to travel abroad with Miss Mannerholm. They left for Sweden in March 1975, and he announced later through his counsel that he had "quit the Commission".

It is ironic that Gary Dassy, whose allegations sparked the Royal Com-



Gary Dassy and Jane Mannerholm in a press photograph published on October 13, 1974 (photo courtesy of The Toronto Sun).

mission, should himself have participated in assaults on inmates and treated them in a cruel and at times sadistic manner. His own self-incriminating testimony and the testimony of other witnesses showed him to be, as one inmate said, "one of the worst of them all". The fact that Dassy was hired in the first place and the further fact that he was able to behave as he did while employed at the jail, drew attention to deficiencies in policies and procedures governing correctional officers, namely, for

- (a) their selection and screening,
- (b) their training,
- (c) their assessment during the probation period, and
- (d) their supervision by superior officers.

Because of his outspoken testimony and his readiness to admit to his own part in incidents involving assaults on inmates, Dassy provided insights into some aspects of the Toronto Jail which required reform. His tendency towards self-dramatization and his attention-seeking made it necessary for the Commission to be alert to the possibility of distortion and exaggeration, particularly as these characteristics led him to stress his own importance and heighten the dramatic nature of his participation in the incidents under investigation. On the other side of the coin, it soon became evident that Dassy had excellent recall and a high degree of native intelligence. His tendency to attempt to justify his treatment of inmates by claiming that it was in the best interests of the jail could have reflected attitudes held by other jail employees less willing to express themselves.

Dassy appeared to have an almost photographic memory of events and at times was able to recall the most minute detail. When he exaggerated or departed from the truth completely, he did so knowingly and sometimes with malice. A major factor in his distortion of the facts was his dramatic heightening of events. It is also possible that truth suffered at times as a result of his enjoyment of his role at the Commission hearings. His reference to the movie *The Exorcist* in his excessively lurid description of inmate James Frost's injuries and his apparent pleasure at his own colourful language, e.g., "he had more tongue than a Mountie's boot", are illustrative of the braggadocio that at times distorted his testimony.

The Commission considers it worth while to provide an analysis of Dassy's character, behaviour, and performance while employed at the Toronto Jail as a case study that may be used in revising the practices for selecting, training, and supervising correctional officers at the jail.

There is no doubt that Gary Dassy's forceful, often confrontation-oriented, behaviour had a considerable impact on life in the Toronto Jail during the four months of his employment there. Evidence indicated that he was not one who would shy away from a fight. On the contrary, he seemed to enjoy the excitement of physical contact. One inmate stated, "On three or four occasions I would see Mr. Dassy in the hallway. I would be walking up and he would always cock his hand back to hit me and on a couple of occasions he did hit me." The evidence of three correctional officers and an inmate supported the contention that Dassy once burned black pepper to give the impression that marijuana was being smoked, in order to "create an episode" and "have some action". The manner in which

he issued orders accompanied by insulting language such as “you skunks . . . animals . . . bastards” provoked disobedience and inmate hostility. It was almost as though his very presence tended to incite the inmates. Dassy was described by one inmate as “driving everybody nuts in this corridor”. When asked whether there was any reason why Dassy might have struck a particular inmate, a fellow correctional officer responded:

A. Dassy didn't need much of a reason. He was that type of fella, just as soon nail you as look at you . . .

MR. BRYANT. What you are saying is one moment he would offer you a cigarette and the next moment he would haul off and clout somebody. Is that right?

A. He was a bit that way, do anything to throw you off guard . . . he was like that all the time . . .

This officer further stated, “If there was any trouble anywhere, the first guy banging on the door was Dassy.” Dassy enjoyed exercising the power inherent in being a custodial officer. There is ample evidence that he abused that power.

It may be suggested that Dassy's treatment of inmates at times approached the sadistic. This is within the *Merriam-Webster Dictionary* definition of “abnormal delight in cruelty” and the *Concise Oxford Dictionary* definition of “pleasure derived from inflicting or watching cruelty”. For example, he threatened to pull out inmate Noel Grant's long fingernails with pliers, and to prevent him from screaming by putting a rag in his mouth. Using what he called “psychology”, Dassy threatened to pluck out inmate David Finnis's eyes “if he didn't shut up and go back to the hospital dorm and go to sleep”. Finnis lunged at Dassy, who admitted putting his “hands over his mouth and nose for . . . maybe 30 seconds, until he just about passed out”. Dassy proudly described the way he dealt with inmate Greg Seymour who, he alleged, kicked correctional officers in the groin:

It was Sunday night and there was chicken that night for dinner. I took out the bone of the chicken leg because that could be used also as a weapon, and stuffed his chicken leg with salt. He had a cup of tea. He then was given, instead of sugar in the tea, salt. I would not give him a drink of water. I told him that there is just you and I now, Seymour, and one of us isn't going to live if you are going to continue kicking officers and what you have been doing. I told him it would be easy when he went to sleep, to go in there, cut his wrist, come out, make a patrol [entry] in the book and say he had committed suicide. From that day on Seymour caused no more problems in that jail.

When asked by Mr. Carter if this constituted “torture” or the use of “psychology”, Dassy referred to it as “corrective measures”.

Dassy, in describing his treatment of inmate Steven Lumley, appeared to be revelling in a story of gore and confessing to his brutal assault upon a man he described as “unconscious”. Other evidence indicated some exaggeration in Dassy's recounting of this incident.

Dassy's justification for his confessed beating of Lumley was that he considered that this was expected of him. Otherwise, he related, the other correctional officers might think that he was "working for the Ministry of Correctional Services as a spy . . ." He indicated that he took the action he did "to protect the jail's image from the point of view of wishing to keep inmates 'in line' ". He further claimed that his sadistic intimidation of Seymour in the salted chicken and tea incident "saved perhaps five or 10 guards from being assaulted". He proudly maintained that, from then on, Seymour "was a very docile inmate".

There was obvious misinterpretation by Dassy of his role as a correctional officer. He expressed belief that his superior officers condoned the use of physical force, as long as there were no witnesses about. He said he understood that the purpose of this was to demonstrate to the inmates that they were not running the jail and to contribute to the jail's reputation as a "tough place". He claimed that C.O. 5 Stanley Johnson told him: "Any inmate that gave me trouble, drop him." He interpreted Johnson's alleged instructions to "rehabilitate" inmate Charles St. James as meaning to "go and beat the man". Not only did Dassy say that such behaviour was expected of him, but he also maintained that it was necessary, so that he could earn the acceptance and respect of the other correctional officers as a "hard man". He also implied that this type of behaviour was acceptable to superior officers as long as one did not get caught. Can it be said that this attitude on Dassy's part was wholly misconceived, considering that his assault on inmate Somerton was not reported by C.O. 4 George Wilson for the reason that "Dassy was a comparatively new officer"?

Dassy's misinterpretation of the jail's policies with regard to the treatment of inmates and his lack of knowledge of standing orders were to some extent compounded by his inadequate training. Excusing himself, he said: "Instead of six weeks' training that the jail tells you you are supposed to have, I had four days' training and therefore if I am not aware of all the standing orders it's the fault of the jail for not giving me the proper training." He also contended that few correctional officers read or were familiar with the standing orders of the jail.

Although obviously desiring acceptance by the other correctional officers, Dassy tended to alienate them by his erratic behaviour, practical jokes, and at times aggressive, argumentive, and unyielding manner towards his friends and acquaintances. When asked by C.O. 5 Vassos Zodiates to submit a Misconduct Report with reference to a certain incident, "he went mad and tore it up". C.O. 2 Augustus Durball described him as "always picking up the phone and asking for various officers of the jail" and referred to Dassy as "suffering from phonegitis". He said that Dassy failed to "keep his cool". The same officer referred to him at Superintendent Gerald Whitehead's retirement party as "all dressed up. The only thing missing was furs." Dassy did not follow through with his arrangement with C.O. 1 George Thompson for a ride back and forth to work, sharing expenses.

C.O. 2 Edward Eugene Dowhey described Dassy's conduct, at the Legion hall after work, as follows:

I found Mr. Dassy to be childish, immature. There were five or six of us having a couple of drinks after work. I believe it was a Saturday night we got off work around eleven o'clock. There was really not much to do. Dassy was with us. He kept making an idiot of himself, taking my drinks, drinking my drinks. Being vulgar. Loud. . . . And since that time I really have had nothing to do with Dassy.

Dowhey recounted another incident in which Dassy "started going into hysterics, calling me a bastard and everything" when he (Dowhey) did not wish to recopy and edit a report Dassy planned to submit to the Superintendent on C.O. 4 George Wilson. Dowhey also reported a "minor case" in which Dassy "loaded down" with pepper a sandwich belonging to another officer.

Dassy, judging by his own admissions, was willing to make promises to inmates that he had no intention of keeping. He told inmate Charles St. James that he would see what could be done about a transfer from Corridor 5 to the annex where there were dormitories and then made a quite different recommendation to his superior, namely, that St. James be transferred to a corridor used, in part, for psychiatric cases. Dassy had criticized another correctional officer for spreading information among inmates that one of their number was a child-molester, yet he later took similar steps himself to stir up trouble among the inmates.

Dassy also admitted lying, to cause inmate Nathan Somerton to be punished, stating that it was necessary to lie in order to keep one's job at the Toronto Jail.

In more routine ways, Dassy's conduct of his duties bordered at times on open insubordination. In a confrontation with C.O. 4 J. B. Brown, Dassy claimed to have said, "We know how you got your stripes, Brown." After saying that, Dassy said, he "stormed out of the office. When I get upset I don't care who I talk to or what I say to them regardless that they are corporals, sergeants, lieutenants, or superintendents . . ."

The Commission transcript revealed that Dassy would leave his post without permission, in contravention of standing orders. He also neglected sometimes to report for work. On the other hand, he would help out by working double shifts. He failed to report incidents when he was obliged to do so. On one occasion, according to his evidence, an inmate had been setting fires, and, if he was telling the truth, he neglected to report this, thus endangering the jail population.

One inmate reported being able to relate to Dassy because "he seemed to be an OK guy". There were occasions when he showed kindness to an inmate, giving him a cigarette, not hurrying him because he had a sore toe, but then confusing him by giving him "two shots in the face". Another inmate described him as a "very sympathetic person . . . one of the more pleasant guards to know".

It is ironic that Dassy, when asked about his future, indicated that he might "go to Sweden after this is all over because they have . . . a more advanced penal system".

RELATIONS WITH INMATES

The relationship between the line officers and the inmate population of the Toronto Jail is oftentimes a distant and careful one. As inmate Joseph Vetere observed: "He was a guard and I was an inmate. There's the clash. There was no personality involved in it." Most officers hold the inmates at arm's length, believing that too much familiarity will lead to unreasonable demands, complaints of favouritism, a compromised position, and loss of authority. Officers and inmates sometimes come from the same background, even to the point of having been childhood friends or school chums. This creates a still greater need for the officer to find a line of demarcation.

As for the inmate, he has checked in his identity along with his other personal possessions and he enters a kind of limbo state, haunted by a continuing sense of loss and the uncertainty of what his future will bring. His anxiety deepens his mistrust of all officers and widens the scope of his hostility and rage. In varying degrees, he desensitizes himself to his environment and voluntarily holds himself incommunicado, except to certain fellow inmates. He is seldom inclined to lift this protective shield.

The distance between the officer and inmate is crystallized by certain attitudes, feelings, and reactions that have been repeated often enough to become a code of behaviour. The correctional officer believes that the well-being of the institution rests to a large extent on his ability to obtain the inmate's respect, and he may resent any affront to his authority. Some consider it necessary that they be addressed as "sir" or "mister". Correctional officers rightly expect that their orders will be obeyed. At times, the inmate who refuses to comply with an order may be excused if he afterwards expresses contrition. As C.O. 1 Edward Torrance said: "If he had appeared in a sorrowful manner, if he had said, 'Well look, I'm sorry, I'm uptight,' I'd just say watch your language and don't let it happen again . . . [but] he was really abusive."

Experience and training should prepare the officer to accept a reasonable amount of abuse, but when this level is exceeded the officer is obliged to lay charges, in order to retain control.

Most officers can weather such storms, but a few react in an unprofessional manner and begin to play "head games" with the inmates. They issue trivial, arbitrary commands, knowing that these will be resisted and will provide an excuse to punish. Other officers may be tempted to invoke their authority when they feel morally outraged by an inmate's crime or by his institutional behaviour.

The inmate's attitude to authority figures may be one of resentment, or even defiance. This may be manifested by anything from passive resistance to violent paranoid behaviour. Demands that authority makes upon him – for example, the use of "sir" or "mister", obedience to orders that seem unreasonable, the expression of contrition for his wrongdoing – feed upon his resentment. The inmate with low tolerance for what he interprets as injustice will rebel and go on rebelling, even if he is required to spend an inordinate amount of time in segregation. Some inmates give an officer mini-

imum compliance with his orders and play their own games with staff, always pushing to test, and if possible bend, the limits of authority.

As a result of these rigid postures struck by both groups, the distance can widen between an officer and an inmate, causing the two to continue questioning each other's motives and doubting each other's sincerity. The relationship can develop into a we/they syndrome. Fortunately, by personality and training, most officers approach inmates with a different set of attitudes and expectations. They would rather talk an inmate through his trouble than segregate him; they build up trust by fulfilling their promises and by being consistent in their attitudes and responses. These officers are confident of their authority and feel no need to test it by using the inmate as a foil.

It is probably true that the majority of correctional officers at the Toronto Jail would be more treatment-minded and rehabilitation-oriented if circumstances permitted. But a transient population and the lack of sufficient programs, along with overcrowding, outdated facilities, and the occasional strain of overtime mitigate against this.

The Toronto Jail officer is generally sympathetic and realizes that events such as court appearances or a rift in family relations can be traumatic for the inmate. The jail, the system, and the inmate's reluctance to speak of himself often prevent the officer from learning about the inmate's personal problems. Instead, an officer may be faced with an inmate's belligerence and abrasive demands, and the chance that his attitude will infect the whole corridor. The officer's primary concern is to contain this type of behaviour and stop it from spreading. Often he will do so by swift, forceful action calculated to serve also as an object lesson to other inmates. Indeed, the officer's job security may rest on his ability to control overt behaviour, to "keep the lid on" and maintain a smooth-running corridor.

Danger is inherent in the work of the correctional officer, who develops a sixth sense for trouble and remains watchful for any signs of disturbance. Experience teaches him that trouble can spring from inmate power cliques, homosexual advances, the misdirected energy of young inmates, the inmates' repugnance for certain types of criminality, and sudden outbreaks of violence on the part of difficult inmates. In addition to these familiar causes of trouble, there is the disturbing factor of the inmate who has somehow obtained drugs or a weapon such as a broken cup or hidden knife or spoon. Then there is the unpredictable inmate who is compliant one day and defiant the next.

Operating in a close-custody environment, the inmate may be too ready to interpret minor events as deliberate affronts. Add to this an obdurate refusal to back down, and possibly a desire to push the moment to its crisis, and the situation may easily go out of control.

If there is to be meaningful rapport between staff and inmate it must come at the line officer level where there is full-time contact. There were many factors that made this task more difficult for the correctional officer at the Toronto Jail. Some of these have already been mentioned – the transient nature of the inmate population, overcrowding, and the age of the physical plant.

The line officer can be helped by an open communications system that

passes to him whatever information is available on an inmate's personality and the types of strain he will be under. The Toronto Jail officer may think his task is at times an almost hopeless one, in so far as significantly worthwhile relations with inmates are concerned. A touch of humour, the right balance of pliability and discipline, and due consideration for the inmate where necessary may make all the difference to an anxious first offender, or to the seasoned inmate who believes that there is no one left in the world who really cares about him.

The officer's own concept of human relations should be broadened by his training. The officer should be prepared to overlook aggravating remarks, or minor disruptive tactics used by the inmates, and to let these pass without becoming defensive and hostile. On the other hand, he must ensure that the efficiency of the jail is not prejudiced or the discipline relaxed to the extent of becoming in any way ineffective. This is the line of professionalism he must walk. A clear understanding of his own emotions will assist him in obtaining the necessary objectivity. By remaining emotionally independent yet professionally aware, the officer can eventually realize the satisfaction of a more trusting relationship with inmates.

C.O. 5 Arthur J. Kennedy summed up the matter, when referring to the officer's change in dress from the military type of uniform with cap to the present flannels and shirt, with or without a blazer:

Most of the people that we are dealing with have a behaviour problem due to the fact that they do not want to accept any authoritarian role pushed on them. Unfortunately many of the people who are incarcerated in institutions are in this position. So possibly if you could get down to an interpersonal relationship with the man, without the cap, it would be . . . better.

DUTIES AND WORKING CONDITIONS

When he appeared before the Commission, inmate Bertram Vickers, in a general comment on correctional officers, said: "He may know his job as to open a door, to let an inmate in, to lock him up, to mark on the books, but he doesn't know his job really that well because he does not know communication."

Many people believe that the correctional officer's sole function is to keep offenders under lock and key. In fact, his duties encompass a variety of functions, including institutional and inmate security, inmate care, and administrative matters. All of these duties must be performed in a manner prescribed by the Ministry and the particular institution, so that the officer must know his institution's standing orders and keep himself informed of any new directives or amendments.

Security consumes the greater part of an officer's time and attention. His obligations in the area of institutional security include checking grilles and doors, covering off for other officers, patrolling corridors, and taking inmate

counts. These routine duties are merged with his continuous responsibility to be on the alert for potential trouble and to protect inmates from harm.

"You have to have your eyes everywhere," was one officer's description of the need for constant vigilance. The officer must be alert to the physical and mental state of his charges and recognize when a man's condition is being affected by drugs, mental instability, fear, or stress. His attention must cover those inmates confined in the corridor, those moving in and out, and even those such as kitchen staff and corridor men whose position of trust enables them to travel through the jail without an escorting officer.

It is essential that the officer recognize a situation that is building up among inmates and attend to it before it becomes a major disturbance. Certain preventive measures can be taken, such as moving or segregating an inmate whose erratic behaviour, aggressiveness, or alleged offence is such as to endanger him or constitute a threat to other inmates. Further, the officer must protect his inmates from homosexual assault, intimidation, harassment, and physical injury.

When a fight breaks out between inmates, the officer is obliged to intervene physically if they do not respond to his order to desist. He should do so with the least force necessary to restrain the inmates and restore peace. Inmates who are put on charge for misconduct are escorted to segregation by line officers. Unless there is an emergency or some other urgent reason, a supervising senior officer should be present. Every line officer who is available is required to respond to the jail's alarm signal, which is sounded when a situation gets beyond the control of line officers in the immediate vicinity.

One of the allegations made from time to time was that a "goon squad" existed at the Toronto Jail. The Toronto Jail is not alone in having had such claims levelled against it. The matter is discussed with reference to specific allegations. Suffice it to say, at this point, that there was no evidence of any such formed group of "heavies". It is only natural that, when an alarm is sounded or physical assistance is required, there would be an advantage in having the aid of large and strong correctional officers. Some of these may have responded more frequently than others, but this was because of being able to be freed more easily from the other duties they were performing at the time. It was not because they were members of any designated group, or squad.

Due to the volume and transient nature of the Toronto Jail's inmate population, the line officer's duties with regard to inmate care more often take the form of practical services than of guidance counselling. The officer supervises meals and exercise periods, and takes requests for medical attention or canteen items such as tobacco. He reports an inmate's illness to surgery. He arranges visits for the inmates and answers their many questions. The officer does what he can to relieve the anxieties of his charges and tries to orientate the inexperienced first offender. If the inmate has a problem that reaches outside the institution, the officer will notify the social service staff of his need.

An important duty involves the gathering up and readying of inmates for court appearances and their processing in and out of jail. Inmates on admission are documented, searched, showered, given jail clothing, and medically examined. Their personal belongings are recorded and stored.

The officer is responsible for recording specified information in the corridor log. The shift takeover is, or should be, noted; inmate movements, behaviour, and complaints are recorded, as are the staff patrols that pass through the corridor and any incidents that occur; all this is noted according to the time of the event. In addition to maintaining the corridor log, the officer keeps inmate files up to date, fills out requests and transfers, and writes up misconduct and other required reports. If an inmate is injured in a fight or hurt through some accident, this too must be documented. Thus, not only is the line officer a man whose eyes must be everywhere and whose presence must be immediate when called; he is also the man who records the flow of events in his corridor.

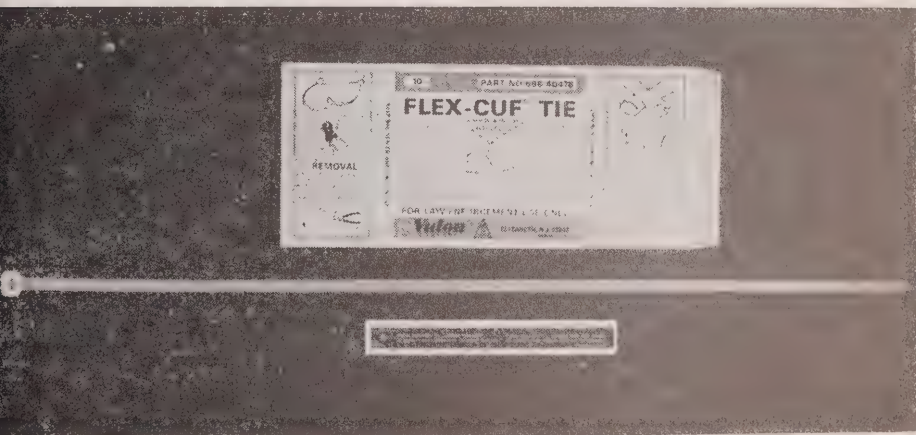
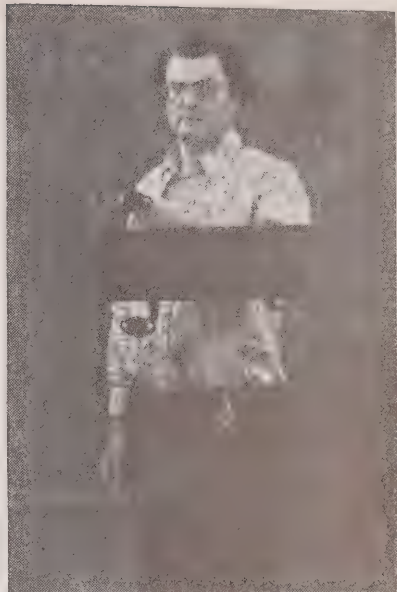
Searches of corridors and other areas are (or should be) carried out for cause or on a spot-check basis for the purpose of countering concealment of weapons or articles that might be adapted as weapons, as well as of drugs. This is founded on the importance of the security of the institution and also out of concern for the welfare of those living and working there – both inmates and staff.

It is also the duty of the line officer to respond to senior staff supervision and to keep up with his assigned training program. The day-to-day ordering of inmate life is the line officer's responsibility and he should avoid needlessly calling on his supervisor. When necessary, a senior officer will enter the corridor area to re-establish its stability and lend support to the line officer. This is in addition to the senior officer's routine patrols.

The matter of assigning line officers to a particular post and shift is the decision of the shift supervisor, who takes into account the need to fairly rotate officers through various jail duties and the practical need to have experienced officers carry out specific duties. Consideration should also be given to officers whose age, health, or personal temperament render them less suited to the more rigorous postings. These last-mentioned officers may be given permanent tasks and their shift kept the same. Some institutions allow officers a greater choice of assignment. For example, in some jurisdictions 60% of officers with seniority may choose their duties, and the remaining duties are assigned to junior officers. I see no reason why, within certain limits, such a system should not be adopted at the Toronto Jail. The Superintendent should from time to time check the roster to ensure that work tasks are distributed fairly. Many officers would prefer to work steadily at the same post, and, while this promotes efficiency and greater inmate rapport in that one area, it inhibits the officer's total experience of correctional work. An officer who hopes to rise through the ranks must gain a fundamental knowledge of all moving parts if he is ultimately to understand the whole machine.

It is one thing to speak of the line officer's duties in isolation and quite another to consider how effective his performance will be under operational conditions at the Toronto Jail with its unique combination of problems.

As stated earlier, one of the line officer's responsibilities is to ensure the safety of inmates, yet every officer knows that he, the protector, may become the victim of an assault and himself be in need of rescue. One officer who was attacked remarked that the inmate "was so uptight and I guess I was



Two views of a plexiglass riot shield and a photograph of the "Flex-Cuf Tie" plastic handcuff, which comes with directions for use. The "tie" is 22 inches long.

the closest person he could take his spite out on, which is the attitude of quite a few people we get in the institution”.

Injuries can occur as a result of such direct attacks, or when an officer thrusts himself between two fighting inmates or goes to the aid of a fellow officer. It came out at the inquiry that, over a 19-month period in the Toronto Jail, line officers were required to intervene 219 times to break up fights between inmates. In all of those incidents they faced the risk of personal injury. Indeed, there were officers such as C.O. 4 Donald McKay, part of whose finger had been bitten off, and C.O. 2 Robert Driscoll, whose eye had been permanently damaged.

Just as they are willing to accept the risk of injury as part of their duties, so, too, the officers suffer insults and threats to themselves and their families.

Another condition of employment that affects the performance of an officer's duties is the amount of overtime he works. Evidence given before the Commission disclosed that a few officers were averaging almost as much overtime as regular time. These were extreme examples, but 50 to 60 extra hours were worked each month by many officers. It is unfair to have a correctional officer work that much overtime, which must interfere with his efficiency. An officer cannot be as alert, nor can he have as much control over his thinking and his emotional reactions, when he takes on a second eight-hour shift immediately after his regular one. During the stress and strain of this additional shift, the officer may lose his temper or act in a way contrary to his usual behaviour. What is more, these extra hours drastically limit the time spent away from the institution; the time which is needed to regenerate his energy and mental outlook.

Two factors tended to increase the amount of overtime of line staff. One of these was the officers' financial situation. Prior to their 1975 raise, many officers found it necessary to work overtime in order to meet their obligations. During the inquiry it was learned that the wives of most married officers were also working. Ironically, one of the facts to emerge in the overtime issue was the anomalous situation of many line officers earning more than their senior officers, who were not paid for their overtime. It became apparent that this situation could deter a good line officer from seeking promotion. The more important of the two factors leading to overtime was the shortage of staff.

I am pleased to report that, since the commencement of our Commission hearings, staff was increased and overtime reduced. A careful watch is now kept of overtime, in order to keep it to a minimum.

The transfer of behavioural problems from other institutions created additional work for the Toronto Jail line officer. Evidence indicated that inmates transferred as behavioural problems arrived at times in groups and with emotions disturbed over their involuntary transfer. The jail called forth extra staff for admission duty. It was implied in testimony that officers who were called to work beyond their normal shift were likely to be impatient with surly or unco-operative newcomers. It is wrong to use the Toronto Jail as a punishment institution for the behavioural problems of other institutions, nor should it be used except in emergencies or unusual circumstances as a stopover place for inmates in transit.

Evidence given before the Commission indicated that a few officers took

discipline into their own hands, and even possibly incited inmates to assault one of their own number. Officers guilty of these acts were proportionately very few, but the fact that they existed at all indicates the need for careful supervision and control by senior officers. Whether held in protective custody or kept with the general population, inmates must not become the assault victims of staff, directly or indirectly. It is the duty of each officer to curb his personal feelings and carry out his work in an objective and professional manner. To act otherwise will make it most difficult to achieve the professionalism and the community esteem which he seeks.

Considering all the tensions associated with the work – the lack of sufficient inmate programs, the danger, the overtime and at times understaffing, and the need to manage acute behavioural problems – the jail's physical facilities should provide staff with certain amenities and suitable places for brief retreats from duty. It is recommended that additional amenities and recreational rooms be set up for correctional staff. As it exists now, there is only one small lunch room and one small tea room with a billiard table available for the staff of both buildings. The working conditions in the new building are better than in the old. In the old, surveillance of inmates was made more difficult by the lack of peripheral walks. Through its cavernous spaces, the old building re-echoed with the blaring of radios (usually tuned to rock music), the clang of steel on steel, and the resounding tread of boots on both steel steps and bare concrete. Some officers found that the noise reached almost traumatic levels and they worried about not hearing an alarm or mistaking the real cry of distress for a sound on the radio.

This review of the duties an officer performs, the tensions he endures, and the conditions under which he works at the Toronto Jail may give some indication of the difficulties of correctional officers in providing the public with an indispensable service. Because the significance of their work warrants it, correctional officers deserve better recognition and appreciation from the community. Certain of the Commission's recommendations are made with this in mind.

A general overview of the duties of the correctional staff at the Toronto Jail has been given. Specific duties are carried out by those who work in specific areas, such as admissions, showers, clothing, corridors, and segregation. The names suggest the nature of the duties involved. No useful purpose would be served by cataloguing them, and there might be security disadvantages in doing so.

The legal sanction and limitation for certain duties, and the penalty for breach of duty, are set out elsewhere in this report.

RECRUITMENT AND SELECTION

What makes a good line officer? The qualifications are as varied as people themselves, but there seem to be some common denominators in connection with correctional service.

There is no one type of person that is better suited than any other for the complex and varied tasks that must be carried out by correctional officers at the Toronto Jail. There is a place for the highly motivated, upwardly mobile younger officer, who may be a university or community college graduate. In addition, there is a need for the interested and reliable officer who will be satisfied to remain a line officer for the duration of his correctional services career. It is recognized that there will be occasions when physical strength will be required in dealing with assaults, but it is not necessary that all correctional officers be large, strong men. There is no longer a place for persons with the old-fashioned, inflexible, authoritarian, "guard" attitude. Persons with strong racial and religious prejudices or with intense anti-youth attitudes are equally unsuitable.

Although the correctional officer should not be thought of as a particular type, there are some personality traits and attitudes that may be considered assets in correctional work:

- (a) *Empathy* – Candidates should manifest an understanding of and an interest in people, and they should be approachable and open-minded.
- (b) *Self-confidence* – Prospective correctional officers should give an impression of assurance and general practical competence, of strength of character without appearing to be excessively authoritarian.
- (c) *Positive, interested attitude* – Applicants should display a reasonable degree of concern about the rehabilitation of offenders.
- (d) *Common sense* – Candidates should have an acceptable level of practical intelligence and problem-solving ability, an openness to alternative approaches, and a capacity to think quickly in stressful situations.
- (e) *Communication skills* – Correctional officers must have a reasonable command of English; competence in second languages spoken by inmates is also an asset.
- (f) *Flexibility* – Applicants should be able to adapt to shift work, intermittent overtime, training programs, and a variety of work assignments.

At the time of the Commission's inception, there was a considerable age gap between the Toronto Jail's correctional officers, whose average age was approximately 45, and its inmates, most of whom were between 16 and 24. The hiring of younger officers – in their late twenties, or early thirties – would reduce this age gap. Evidence before the Commission and information from outside interviews indicated that persons no more than 5-10 years older than most of the inmates will relate better to them; the stability provided by more mature and experienced officers should, however, not be undervalued. Candidates must also meet the Ministry's medical and physical standards and show general physical fitness.

Current Ministry of Correctional Services advertisements for correctional

officers to serve in detention centres and jails specify an Ontario Grade XII certificate as a requirement and indicate that graduation from a university or a community college is considered an asset. It is considered by the Commission that, while it is desirable that most correctional officers should have at least Grade XII education, the lack of this level of education should not be an absolute barrier to those with the right personal characteristics and successful, related work experience.

Men with previous military or police service have in the past been considered good candidates for correctional employment. With the enlargement of the correctional officer's duties in the direction of rehabilitation, and with the decrease in the number of persons with military experience, this has become less of a factor.

It is meaningless to have high standards for correctional officers if there are few applicants to fill vacancies and if there is a high staff turnover. When the jail is understaffed, with correctional officers filling the gaps through overtime, those responsible for hiring cannot be as selective as they would otherwise be. The optimum, therefore, is to have the jail complement up to strength and be highly selective in choosing new personnel.

Unfortunately, in the past, service in corrections has not had a high status and has sometimes been poorly paid in comparison with (for example) police work. Working conditions in older institutions such as the Toronto Jail have been poor. Job satisfaction remained low as long as the emphasis was primarily custodial. If the recent success in attracting better applicants is to continue, efforts must be made to make correctional work more desirable as a career and more closely comparable to the work of a police officer, parole officer, or social worker. The importance of a realistic briefing as part of the orientation of new employees was pointed out to the Commission. If probationary officers are aware of the problems they may expect to encounter and the stresses to which they will be exposed, they are less likely to experience early disillusionment, and wasteful staff turnover will be reduced.

As emphasis on the "helping" role of correctional service increases, its social status will also increase.

Salary scales should be brought closer to those offered to Ontario Provincial Police officers. At one time they were quite close, but in recent years the disparity has increased. It is suggested that the difference between the O.P.P. constable and the correctional officer (see table in Volume 2, page 63) be reduced. Further, the provincial correctional officer should not receive less than the federal penitentiary officer.

At present, Toronto Jail correctional officers below the rank of C.O. 4 are represented by the Civil Service Association of Ontario (C.S.A.O.) and, consequently, their salaries are negotiated together with those of the other civil servants in that association.

The Commission considers that the duties of correctional officers are relatively unique and more closely related to those of police officers than to those of the office workers, maintenance personnel, and the others who constitute the membership of the C.S.A.O. It is, therefore, suggested that correctional officers be recognized for bargaining purposes as a separate group

within the C.S.A.O. and that their salaries not be tied to overall civil service salaries.

Integration of correctional employment with other occupations within the Ministry of Correctional Services providing for cross-postings for correctional officers as parole officers, probation officers, or social workers is desirable. Similarly, common training could be instituted within the Ministry and, possibly, arrangements made for the inclusion of correctional officers in some police training course. This suggestion seems to be particularly appropriate at the middle and senior management levels. Don Sinclair, Deputy Minister of Justice and a former Deputy Minister of Correctional Services, spoke to the Commission about the advantages of a "career umbrella" approach within corrections and law enforcement. It would greatly broaden the experience of potential senior officers, allow for lateral transfers, and significantly expand promotion possibilities.

The current methods used to attract correctional officer candidates should be re-examined. At present, each institution such as the Toronto Jail does its own recruiting and hiring. For Toronto and the surrounding area, consideration might be given to the possible advantages of centralized recruiting and hiring. This would permit the sending of recruiting teams to schools with informative literature and authority to arrange jail visits for interested students. Presently employed methods include media advertising, referral by existing staff members, and liaison with manpower agencies.

Evidence at Commission hearings indicated that some applicants (e.g., former C.O. 1 Edward Torrance) may not have disclosed previous corrections employment that might have affected the decision to hire them. Unsolicited applicants may apply to an institution that does not have vacancies at the time. There may also be a surplus of applicants for specific openings. Applicants who may not be quite suitable for employment in an institution to which they have applied might be considered satisfactory elsewhere. A central personnel registry should be established. It would then be possible for a jail to request information on applicants with the desired qualifications for particular vacancies.

There has been a recent trend to use female correctional officers in regular line assignments in the all-male areas of penal institutions. Women have carried out all the duties of male officers except the obviously inappropriate ones, such as body searches and supervision of shower areas. The presence of women is generally considered to have an ameliorating effect on the language and behaviour of male correctional officers as well as inmates. Individual female officers have demonstrated enthusiasm for their pioneering role and have shown skill in dealing with difficult situations. Concern that women are not strong enough to deal with threatened assaults can be met by the use of a "walkie-talkie" system like the one at the Toronto Jail.

The suggestion of a former inmate that ex-inmates should be considered for staff positions within the correctional system has merit. While inmate employment within the institutions has been with us for some time, the idea that offenders may have something unique to offer the correctional system is a relatively new concept. The offender has, after all, an inside knowledge of law violation, the police, the courts, and correctional treatment, and the

man who has been rehabilitated may often be a good man to assist in the rehabilitation of others. The restorative influence of a self-help brotherhood is illustrated daily by the success of organizations such as Alcoholics Anonymous.

The experience of having been an offender and, in particular, the lessons learned in being rehabilitated and re-established in the community, could be of assistance in counselling inmates. Selection criteria for choosing ex-inmates are, however, of crucial importance. Emotional stability would be needed to cope with taunts and barbs from cynical inmates and possible initial coldness from other correctional officers. Ex-offenders should have the strength of character and the attitudes needed to maintain discipline, while at the same time being open to inmates' approaches for counselling and advice. Successful ex-inmate correctional officers might serve as role-models to younger offenders. A fully rehabilitated ex-inmate might be particularly effective in dealing with hardened inmates. It is self-evident that sex offenders and those with violent tendencies should not be hired as correctional officers.

Significantly, since the government has long advocated that private industry hire ex-inmates, the Ministry of Correctional Services can itself set an example by hiring ex-offenders as correctional officers. It may, however, be that the Toronto Jail is not the best place for the first assignment of an ex-inmate because of its crowded conditions and transient population. Such officers might serve their first tour of duty in an adult correctional centre. This suggestion should not, on the other hand, prevent the Toronto Jail from considering the matter seriously.

It should be a continuing policy in the Toronto Jail to hire correctional officers with ethnic backgrounds similar to those of the inmates. The Commission is satisfied that black correctional officers have had reasonable opportunities for employment and promotion in the jail. A quota system for particular racial groups is not advocated, but it is proposed that positive recruiting measures be initiated when numbers of inmates of a specific racial group appear in the jail and there are no correctional officers of the same background on staff.

Once an adequate pool of recruits is established, primary emphasis must be placed on selection and screening procedures. It is wasteful and individually frustrating to have large numbers of probationary officers released as unsatisfactory if this result could have been predicted during the screening process. Individuals who might quickly become disillusioned and resign should be eliminated in the pre-hiring screening.

A thorough check of the information provided by applicants on application forms and in interviews could turn up unrevealed unsatisfactory employment records or evidence of serious emotional instability. The results of such background reviews should be retained in the proposed central recruiting file to eliminate duplicate investigations.

There is a school of thought supporting the belief that appropriate psychological, intelligence, and aptitude tests can screen out unsuitable applicants. In fact, this was recommended by some Toronto Jail line officers. Personality tests may reveal sadistic tendencies, fundamental inferiority

feelings, or latent hostility and aggressiveness. The experience of the Dutch penal system is that 40-50% of applicants are eliminated by such a testing program. The tests currently used by the Ontario Provincial Police and the Peel Regional Police might be applicable to correctional officers as well. Tests could be specifically designed in terms of correctional officer tasks.

At the present time, interviews with recruits are conducted at the jail by a committee consisting of Senior Deputy Superintendents Paul Mulhern and Peter Jackson, and one of the shift supervisors. A member of the regional personnel office may be added to the committee from time to time. The Toronto Jail considers that this committee conducting in-depth interviews forms a satisfactory screening board.

Effective recruiting and selection procedures reduce the time and money that must be expended on training.

Too often the correctional recruiting system has proved to be a negative process that attracts people by chance, not by choice; the applicant would have preferred another type of job. Some candidates have been attracted to corrections because it represents a secure civil service position, others have been drawn by their curiosity about crime and criminals, and still others have fallen into the work as a second, third, or even last choice. The difficulty in the past of recruiting highly qualified people to the field was due in part to the public's lack of understanding. Correctional work was viewed as discouraging, thankless, potentially dangerous, lacking in upward mobility, and low in both salary and prestige.

More recently, government agencies in both Canada and the United States have realized that recruitment must be turned into a positive process. These agencies have considered the awakening of the public to the social significance of correctional work as something that must somehow be done, to revitalize recruitment. In 1975, the Ministry's Task Force on Correctional Officer Orientation and Basic Training recommended a search for new ways to present a positive image of correctional work to the general public and to prospective employees. Similarly, the U.S. Department of Justice found that new public information systems had to be used to improve the image of corrections and to interpret the correctional officer's role to potential candidates.

A positive boost for recruitment has come from the active promotion of correctional work as a professional career. Government agencies have recognized the value of increased liaison with educational systems, beginning at the high-school level where a correctional career can be part of the career guidance program, through to community colleges and universities where the curriculum can be expanded to include certification, as well as B.A. and M.A. career courses in corrections and criminology. The young people recruited from these sources will be expecting a viable, open career, and the system must be prepared to meet their expectations. In its report to the Ministry, the task force emphasized the crucial importance of developing adequate "career paths" as part of the overall manpower plan.

Unfortunately, such heights of refinement in the selection process have their antitheses in methods used by some selection boards and described in Professor T. Willett's 1974 study of the federal induction system. The inter-

viewers he described were not trained in the selection process. Instead, their approach to selection was rather casual and subjective, and the hiring decisions were made despite a basic lack of information on individual candidates. The profile reports turned in by these interviewers bore little resemblance to the confidential assessments made during the recruits' training and later service.

TRAINING

When this Commission began its hearings and inquired into specific training at the Toronto Jail (apart from courses organized by the Ministry), it learned that such training was haphazard, unstructured, and somewhat sporadic. Much depended on senior officers voluntarily improvising on-the-job instruction of line officers, even of newly-hired ones. It is hoped that the Commission's inquiries have assisted in the better planned training program that was adopted.

It will be useful at this point to recall some of the insights gained from the evidence of correctional officers.

C.O. 3 Thomas Bell had worked at the Toronto Jail for approximately 17 years and the only training he had was received there. He took no outside course, "because at that particular time we just did not have the staff available".

C.O. 2 Cyril Boakes stated that he began working at the Toronto Jail in July 1966, which was shortly after the jail was taken over by the Province from the City of Toronto (January 1966). He was working at the Toronto Jail for six months before being sent for the training course at Guelph. The criticism here is that a correctional officer should have been working for a six-month period without a basic training course. Later correctional officers were not so deprived.

C.O. 1 Paul Barclay stated that he was at the Toronto Jail for about six weeks; then he took a two-week orientation course at Guelph. He observed that it would not be practical for a newly-hired line officer to begin a formal course until he had worked for a while at the jail. "You get a rough idea how the jail operates. You work pretty well everywhere. They put you in every place, you know, so that they give you a couple of hours here, maybe a day there, so you get a feel of the place." I consider that a lesser period than six weeks of jail experience should be adequate to make the orientation course meaningful.

Before C.O. 5 Stanley Johnson was formally appointed as the Training Officer, one of the senior officers in the jail had the less meaningful duty, in addition to his regular work, of holding the training "portfolio", which included responsibility for overseeing the correspondence lessons. Johnson was helpful to the Commission in providing a copy of a training manual he had developed. He had been named in some of the allegations, and my im-

pression is that he learned much during our hearings about the proper attitude of correctional officers towards inmates in accordance with the Ministry policy, and I believe that he will properly instruct correctional officers in this regard.

C.O. 5 Robert Nuttall, if he should ever feel inclined to take the post, would make an exemplary Training Officer at one of the Ministry's four regional training centres, as he carries out in practice what he advocates in theory.

At times during the hearing there was evidence of a lack of adequate training of line officers.

Gary Dassy referred to the inmates as "animals". What worries me, as much as Dassy's statement itself, is the fact that he apparently thought he would earn the approbation of his fellow officers by making such statements. That there was such thinking on his part suggested a breakdown in the training process.

C.O. 2 William Stafford did not consider his actions against inmates Machan and Green to constitute unnecessary use of force.

C.O. 2 Charles Casey did not know the function of segregation cell No. 5. "I have only realized this today, sir, since I have been here. I had no idea that they only used it for certain people. On many occasions I have gone over with senior officers and that person could be put in there for any reason."

C.O. 1 Glenn Bennett was unaware of Switzer's mental and physical limitations. If Bennett did not know that Switzer was an epileptic and of less than normal physical and intellectual ability then there was a lack of communication in the failure to inform the corridor officer. This is a matter of the training of both senior staff and line officers in the need for good communication.

I was pleased to see that standing orders were revised and consolidated after the commencement of our hearings, for there was considerable confusion and lack of knowledge about them. All correctional officers should be obliged to familiarize themselves with all standing orders. On completion of a reading of the book of standing orders, they should sign a slip indicating that they have read and understood the orders. There should be extra copies of all subsequent orders or amendments and an accompanying distribution list to be signed by all officers. This would ensure a greater responsibility on the part of the correctional officer to familiarize himself with the standing orders and ensure that he is always up to date on them. This is most important for an efficient running of the jail and for proper communication. Unless there is an acknowledgement by signing, there is a tendency of some personnel, usually the less conscientious, who have therefore all the more reason to be familiar with standing orders, either not to read the orders or just to flip through casually without paying much attention to them. There is a duty incumbent upon all members of staff to familiarize themselves with standing orders, but unless this is enforced in some manner it can easily be overlooked.

Assistant Deputy Superintendent James F. Whitely was asked if a training exchange program for Toronto Jail officers might enable them to attend such

institutions as the adult training centres, where they could observe how young inmates were being handled.

MR. WHITELY. Well, there is a scheme for that now, sir. In fact, I think altogether four officers have been on exchange to the adult training centre [Brampton] and some to the Ontario Correctional Institute [Brampton, for drug, alcohol, and sex cases].

THE COMMISSIONER. How long a period?

A. Three weeks.

Q. When was that started?

A. That was started I think about seven or eight months ago [i.e., about the beginning of 1975].

Deputy Superintendent Paul Mulhern described the efforts to train line officers in the new "treatment" approach to the care of inmates. "His responsibilities are primarily custodial, although we are trying to inject . . . some sort of treatment . . . we are trying to get the officer to see himself in a greater role than that of someone just making certain the inmate is there. . . . [Custody] is our primary function. We have inmates . . . going out to a federal or provincial system and we would like to think that, whatever impression we can leave them with, hopefully favourable, they are going to respond to programs, and possibly [this will change] their whole motivational outlook."

C.O. 2 Thomas Davey testified that, after working for five months at the Sault Ste. Marie Jail, he was required by the Superintendent to answer 80 questions pertaining to his duties as a correctional officer. "We had to put all these answers in writing, and then the Superintendent would correct them and go over them with us and point out any errors we had made, and show us the correct way."

This procedure might be adopted by the Training Officer at the Toronto Jail. It would not only stimulate interest but would reveal and permit correction of any misconceptions about duties.

C.O. 2 Lloyd Robinson said that for about a year and a half he had been taking a home course in literature, history and human behaviour through a correspondence school.

C.O. 2 John Turff stated, "I am presently involved with a Ryerson certificate course in correctional administration and law. . . . The Ministry pays half of the cost upon completion."

I have had the opportunity of reading the syllabus of Ryerson Polytechnical Institute. The course that Turff referred to leads to a certificate in Law and Correctional Administration. The syllabus states: "The purpose of this program is to provide the social and psychological perspectives for understanding the complexities of behaviour defined as deviant, and the ensuing institutional and individual responses." It is further stated: "The program will be useful to persons working in the field of law and correctional administration and to those more generally interested in understanding the social meaning of deviance."

C.O. 5 Arthur J. Kennedy took a management course in 1972. He qualified as a St. John Ambulance Association instructor in 1971 and held a degree from McMaster University in criminology. He advised that the degree was taken partly by correspondence through the Ministry and partly by attending seminars. It was a three-year course and it included psychology, sociology, counselling, corrections, and criminology.

James F. Whitely, at the time when he was Assistant Deputy Superintendent of the Toronto Jail, attended one of the community colleges to improve his academic qualifications and he also took courses on basic counselling, advanced counselling, human development, audio-visual aids, basic psychology, and drugs.

Correctional officers are to be commended for enrolling in outside courses to broaden their qualifications for correctional work. When the course is one approved by the Ministry, the officer should be reimbursed for the cost of the fees.

Correctional officers should be encouraged to take further outside training that will give them better chances of advancement. Also there should be some incentive pay increase to encourage such initiative and to promote professionalism in correctional services.

I also had an opportunity to look at the syllabus of the University of Toronto Centre of Criminology. A certificate may be obtained from this centre. One of the subjects offered was "Theories and Methods of Corrections", delivered by A. K. Couse, who was Executive Director of the John Howard Society of Ontario. According to the syllabus: "This course traces the history of penal methods and the development of contemporary corrections. The Canadian correctional apparatus is examined in relation to current issues and proposals. Correctional methods, problems, and efficacy are considered in some detail, in institutional programs and in community programs. Correctional processes, as these relate to typologies of offenders and special problems of females, youthful and persistent offenders are considered. Enrolment is limited." The program is open to correctional staff, but the syllabus is a more advanced one than would be practical for most line officers.

One may recruit promising individuals, but if they are not properly trained, not only in the required skills but in attitudes and the carrying out of the Ministry's directives, then trouble lies ahead, both in the area of the jail's security, and in the risk of maltreatment of inmates.

There have been changes from time to time in the Ministry's training courses for correctional officers – the length of time correctional officers are trained, the amount of training, the nature of the course, and whether it is a "living-in" or correspondence course. The Ministry should be commended for trying to improve and widen the ambit of its training.

An example of this is the discontinuation of the correspondence course for line officers when certain weaknesses became apparent. The correspondence course was discontinued because it was thought that the work being handed in often was not that of the student himself, but of other correctional officers. Generally speaking, the correspondence course was good in terms of content, though some of the material was on a higher plane than necessary. A sim-

plified correspondence course should not be ruled out entirely, for such a course could provide helpful background material to the new correctional officer. It would be a relatively inexpensive, flexible way of providing background and supplementary information, at times when new officers could not be made available for formal classes.

Under the former arrangement, the correspondence course was followed by a two-week living-in course at Guelph. Both courses were discontinued.

A voiced objection to courses, whether of a correspondence or living-in nature, was that in so far as the Toronto Jail was concerned the work of the correctional officer was quite different from that performed in other institutions. It is for this reason that the Toronto Jail now conducts orientation and basic training courses for new correctional officers in a separate building on the jail grounds (formerly the Governor's house). The Ministry supervises these courses and provides the necessary liaison with the designated Toronto Jail training officer, C.O. 5 Stanley Johnson. These courses cover the general Ministry syllabus as well as the practical aspects of a line officer's duties at the Toronto Jail.

The situation at the Toronto Jail with reference to the training of new correctional officers was different from that at other institutions within the Ministry. There was the fact that the Toronto Jail did not have a complement of officers above its approved establishment, and the fact that it was subject to sudden influxes of inmates requiring the use of all available officers which put an impractical strain on its personnel resources when some were absent on courses. It was therefore easier for the Toronto Jail to have its new officers take their basic training on location at the jail rather than at the regional training centre. Its problem of turnover of staff demanded basic training of new officers as early as possible in order to properly orientate them. The solution appeared to be to have new officers receive their orientation and basic training at the Toronto Jail. This permitted it to take such new officers temporarily off course to help out on custodial duties where that was necessary.

The advantage of such basic training at the Toronto Jail is in the aforesaid flexibility and mobility of new personnel. The disadvantage is in depriving the correctional officer of the benefit of contact with correctional officers from other institutions, and in the danger of perpetuating attitudes that might be inconsistent or incompatible with the Ministry's directives and objectives. To counteract this last disadvantage, the Ministry's regional training centre monitors and keeps in touch with the Toronto Jail's training officer on matters of basic training. Further, prior to the completion of his one-year probation period, the Toronto Jail C.O. 1 attends the regional consolidation course where, along with the officers from the regional institutions, he is given further training which is partly in the nature of a refresher. It also means that assessment reports are made by non-Toronto Jail training personnel.

After his one year of probation, having taken his basic training at the Toronto Jail and his consolidated training at the regional training centre, the C.O. 1, if satisfactory, will be granted C.O. 2 rank.

It is hoped that this training program, which evolved during the course of

the Commission's hearings, will result in a higher overall standard of training for line officers at the Toronto Jail. In discussion with Ministry personnel it was indicated that the accounts of the allegations investigated by the Commission could be used as training material, particularly for new line officers, not only at the Toronto Jail but also in other Ontario institutions. It is partly for this reason that the review of the various allegations often went beyond findings of fact and considered, as well, the causes and the possible ways of preventing incidents.

Inmate witnesses who appeared before the Commission seemed to fall within three categories: (a) those for whom there would be realistic pessimism on the matter of their rehabilitation, (b) those for whom there might be hopeful optimism about their successful rehabilitation, and (c) those who were borderline, walking a rehabilitative tightrope, as liable to fall off as to reach the winning pole at the end. The members of this third group are the most important ones for the correctional officers to win over. It is in an attempt to succeed with these people that the proper training of correctional officers becomes important – to save the middle group for themselves, their families, and society, and to save the community the tax burden of housing and keeping them in jails and penal institutions.

C.O. 2 David Cockburn recommended that each officer in training be assigned to a single experienced officer rather than to a number of officers. This has considerable merit and is endorsed by this Commission. There would be more effective training if there were a one-to-one relationship between the new correctional officer and the experienced correctional officer than if the responsibility were divided and the new correctional officer picked up his information on a "catch as catch can" basis. Also, more useful and accurate reports would be written on the new correctional officer for assessment by senior staff.

There is a danger that some correctional officers might indicate, "That's all very well, but we don't do that here." This is a problem not only at the Toronto Jail but also with reference to general training programs and procedures elsewhere, including jurisdictions outside Ontario. The instructing officers should be carefully selected. Impressions first made are very important and if the correctional officer to whom the new recruit would be attached is someone who is not in agreement with the training policy and directives of the Ministry, then great harm can be done. No matter how good his training course would be he might because of improper conditioning approach it from a wrong perspective. Attitudes and lessons learned by a raw and impressionable recruit might be difficult to unlearn.

If, on the other hand, proper attitudes and instruction are inculcated from the outset, including the humane treatment of inmates, then the subsequent training course will be of greater benefit.

Although suggestions have been made by witnesses at the inquiry, and elsewhere, that the probationary period should be reduced to six months, I am of the opinion that to shorten the probationary period would be a mistake. The one-year period is necessary to complete proper training and assessment of a new correctional officer.

Undoubtedly some correctional officers, Dassy for example, can be as-

sessed in a much shorter period than one year. C.O. 4 George Wilson stated that he did not report Dassy's behaviour in the Somerton incident because Dassy was a new officer. I do not see eye to eye with Wilson on this matter. A new officer is on probation. It is important for his proper assessment that senior officers report all such incidents for the benefit of all those who will be evaluating and assessing the performance of the new officer. In this way, probationary officers who are unsuitable for correctional work because of their temperament or the like, can be weeded out as early as possible. The work of a correctional officer is, in the opinion of this Commission, of such importance to the community, to the Ministry, and to the welfare and possible rehabilitation of inmates that to shorten the probationary period to less than the present one year would be inadvisable. Although there may be correctional officers whose ability, intelligence, and performance are such that they could be put on a permanent basis prior to the end of the one-year period (I have in mind someone like C.O. 2 Charles Leutz), charges of favouritism undoubtedly will be levelled to the detriment of morale, and so there should be no exception to the one-year rule.

Correctional officers who have been transferred from other institutions, particularly those with a lower security classification, should, of course, attend the Toronto Jail orientation course as early as possible. Also, if necessary, they should attend the Toronto Jail basic training course. C.O. 2 John Haddow, who had been transferred from the Monteith Industrial Farm to the Toronto Jail, stated that he had a training course at Guelph in 1964 and nothing more. The orientation course should up-date correctional services generally, as well as the demands and specific problems a correctional officer would encounter at the Toronto Jail.

Consideration should be given to having someone from the Ministry Training Centre attend at the Toronto Jail to conduct refresher courses not only for newly transferred correctional officers but for correctional officers who have not been on course for some years. This would create new interest and professionalism in the correctional staff.

After a time, it is easy for those working in a jail to become "institutionalized" themselves and lose some of their sensitivity, treating inmates as ciphers rather than as human beings. It is suggested that correctional officers attend refresher courses at least once every five years. It may well be that some will have attended upgrading courses sooner than that. The line officer should be trained to recognize, assist, and wherever possible personally deal with psychiatric problems, at least on a practical level. This would make his work more interesting. It would also ensure his working more closely with the social service personnel in the jail, as well as with those in the after-care area such as probation officers and volunteers. It is important to introduce this working together into the training and thinking of the line officer.

The corollary is equally applicable. The social service people and agencies should work closely with the line officer, so as to be better able to understand his problems. This increased understanding will assist in greater co-operation between the two groups. Such co-operation will not only lessen the conflict that sometimes exists but also will improve the efficiency of the institution and the social service support it is able to give inmates. As a

result, the correctional officer will be less of a custodian and turnkey and more of a counsellor, helping towards rehabilitation. To use the words and the philosophy of the Butner (North Carolina) program (Dr. Robert B. Levinson and Dr. Donald A. Deppe), "It will facilitate treating inmates with dignity and make imprisonment less corrosive."

With this in mind, both the Ministry and the Toronto Jail admit to their orientation courses social service workers, nurses, secretaries, and others employed at the Toronto Jail on non-custodial duties. The orientation course forms three days of the correctional officers' 10-day basic training course.

It has often been said that there is no substitute for experience. Certainly, repeated first-hand lessons learned over the years by correctional officers are of great assistance to them in the carrying out of their duties. As an example, C.O. 2 William Stafford, during one part of his evidence, spoke of the warning signs of inmate unrest. "What I would look for, it is there. The tension is there, the position is there, the way they position themselves in the corridor. All the signs are there for a correctional officer to read the signs of what is going to happen."

From the above it may be seen that an experienced correctional officer gets the "feel" of the situation and knows how to react. But experience takes time to acquire. The closest substitute, for the new officer, is training that incorporates the experiences of others. It is hoped that the allegations and incidents set out in this report may be used as a training aid, showing the right or wrong way to cope with a given situation. It is the duty of those in charge of training programs to ensure that as much experience as possible is passed on to recruits.

The Jail

SENIOR OFFICERS

As the officer (C.O. 1 and C.O. 2) moves through the staff hierarchy of the Toronto Jail into the senior officer category (C.O. 3, C.O. 4, and C.O. 5), his duties shift from direct contact with the inmates to supervision of the line officers. And the higher the officer rises through the senior ranks, the farther he gets from the everyday corridor life of inmates.

Above the senior officers are the Deputy and Assistant Superintendents, and above them is the Superintendent. Through their imaginative understanding of what is needed, this small Superintendent Group initiates the programs and procedures of the jail.

At one time there were officers of the rank of C.O. 6 at the Toronto Jail. These officers, who corresponded to the former jail military rank of captain, were immediately below the Superintendent Group. This rank, for all practical purposes is being phased out.

C.O. 3 is an anomalous rank, in that, although part of the management structure, the C.O. 3 is still included with line officers in union negotiations. In some Ontario jails, there are no correctional officers holding this rank, and C.O. 2s are promoted directly to the rank of C.O. 4. The Toronto Jail, because of its large staff, continued to appoint to this rank for supervisory duties.

Senior staff are well acquainted with the attitudes and problems of their subordinates, since they have themselves progressed through line work. It is no exaggeration to say that the quality of an institution's senior officer

group can set the tone, good or bad, for relations between correctional officers and inmates.

The supervision of line staff is the senior officer's primary duty. Senior officers who are assigned to act at particular times as shift supervisors (one for each building of the Toronto Jail) have such administrative responsibilities as the preparation of duty lists and the posting of suitable officers for each duty. Certain service duties (such as kitchen duty and corridor duty) are also assigned to dependable inmates. Periodic assessment reports must be made on the performance of each line officer. Senior officers have the duty of overseeing any alarm situations. They also are supposed to supervise the escorting of inmates to segregation. Some instances were cited during the allegation hearings of this not being done.

Senior officers make regular patrols through the jail. During these patrols, they inspect the segregation cells to make certain that all is well with the inmates. They may also make recommendations to the Superintendent about the early release of those confined in segregation. They check to ensure that security and housekeeping conditions are in good order, discussing any problems with line officers and checking on the general state of the inmates. By this continuous observation, the senior officer reads the mood of the inmates and keeps himself informed as to the ability of line officers, whom he should counsel to help them improve their performance.

The unit concept is relatively new in the staff organization of the Toronto Jail. During the inquiry, it became evident that line officers would benefit from more direct supervision. In some emotional situations, some line officers had proved lacking in self-control. The unit concept should, because of its accountability, reduce the incidence of this. Evidence indicated that occasionally a senior officer had neglected to control the line officers' conduct towards inmates and might even have been a party to an assault. It is hoped that under the unit concept senior officers will be more likely to set a proper example.

It was alleged that force was used to teach errant inmates a lesson, to exact retribution for the assault of a fellow officer, or to excessively counter the resistance of an inmate on his way to segregation, and that this was tolerated at times by a senior officer. These few senior officers may have turned away at the critical moment, tacitly condoning such behaviour, or worse, overtly encouraging it by attitude, word, or deed. There was also the suggestion that one or two senior officers were known to give greater latitude to line staff, allowing force to be used in the guise of discipline. In the presence of such senior officers, line staff might care less about the degree of force they used to counteract the resistance of a disturbed inmate. This indicated a weakness in the attitude of some officers, who are legally and morally bound to protect inmates. The duty of staff in this regard is set out in detail in the section of this report dealing with the law.

It should be made clear to all Toronto Jail staff that senior officers will not tolerate any unnecessary or excessive use of force by correctional officers on inmates. Senior officers should report to the Superintendent any breaches of this rule. The task of staff discipline and control thus falls first and foremost on senior officers. Some line officers complained that senior staff were

not interested in their problems and at times unapproachable. The senior officer must be close enough to his men to understand them, and yet sufficiently apart from them to discipline them and control them.

All senior officers should be aware of those recurring circumstances which often give rise to the use of force, the inmate's reaction to segregation being a case in point. Often, the intervention of a senior officer, with his greater experience, his personal detachment from the inmate, and the inherent respect rank commands may defuse an explosive situation. For this reason, it is essential that a senior officer supervise an inmate's transfer to segregation and see him safely inside the cell before leaving. A senior officer's presence is also important when line officers are dealing with a difficult inmate who presents a threat of danger to staff and other inmates. While the line staff is trying to control such a man and prevent injury to others, a senior officer should oversee the situation to ensure that only necessary force is used. Senior officers are the integral link between the Superintendent Group and the line staff. All new Ministry and jail directives or procedures should therefore be properly communicated to senior staff. Recently, the Toronto Jail moved in this direction by convening meetings with correctional officers to explain new orders and procedures and provide an opportunity for discussing these and other related matters.

Senior officers should concern themselves with staff updating, inmate counselling, and staff relationships. Line staff should be given all information that will affect their duties, and the senior officers should ensure that vital information on inmate behaviour is passed from one shift to the next. The shift supervisor should post correctional officers with good communications ability to the sensitive areas where inmate tempers are liable to explode. The astute senior officer also realizes that staff relationships have a direct bearing on staff attitudes towards inmates, since the line officer is bound to deal with an inmate the way he (the line officer) has been dealt with by his superior. Thus, the disciplining of line officers should be conducted away from inmates and in a diplomatic and tactful manner.

It became obvious during the inquiry that many line officers mistakenly felt that it was a reflection on their competence to summon a senior officer in times of trouble. Senior officers may not have understood this fully. They should make it clear to the line officer that calling for support in a situation that might become troublesome will not be adversely interpreted.

The senior officer's relationship with inmates is quite different from the line officer's. Very often, his contact with inmates is in times of extremity – when something has gone wrong or trouble is anticipated. For this reason, he must be highly skilled in dealing with men who are in or approaching a crisis state. The amount of instant decision-making and crisis intervention done by senior officers is greater at the Toronto Jail than in most institutions, partly because of the tension generated by remand inmates, particularly those who have failed to qualify for bail, and the behavioural difficulties of problem inmates who have been transferred from other institutions. When a senior officer assumes control of a disturbance, his primary objective is to calm the inmate, so that either the crisis can be averted or the inmate can be safely handled by his escorting line officers. In a corridor setting, some

senior officers will then reassure the other inmates and try to settle their anxiety.

Since the inquiry's inception there has been an increase in the complement of senior officers at the Toronto Jail and this has enabled the jail to adopt a modified unit concept. An increase in senior staff also makes these officers more readily available to guide line staff through troubled situations, and it permits them to exercise greater control over line officers.

In discussions with some C.O. 4s and C.O. 5s at the Toronto Jail, I was impressed with their knowledge of the jail and correctional services generally, and with their intelligence and ability to express themselves. There was, however, a note of pessimism expressed in their belief that they might not be promoted further.

The Superintendent Group should include people with an academic background (particularly in the social and legal sciences) as well as some who have come up through the ranks and have practical experience.

Although it is sometimes unfair to mention names, I think that silence in this regard would be equally unfair. I was much impressed with (among others) three of the correctional officers in the middle management bracket – C.O. 5s Arthur Kennedy, Robert Nuttall, and Vassos Zodiates. I suggest that every opportunity be given to these men for promotional consideration to the Superintendent Group, either at the Toronto Jail or elsewhere. I believe that this would be an encouragement to other senior officers.

THE SUPERINTENDENT

Unlike his line officers, who deal primarily only with inmates, and his senior officers, who are directly concerned with man management and control, the Superintendent has responsibilities in four directions – to the public, to the Ministry, to the staff, and to the inmates. As senior administrator of the Toronto Jail, he must ensure the carrying out of the Ministry's correctional program. He must supervise the staff of the jail, and take responsibility for the welfare of the inmates.

Over the years the Toronto Jail has been in the forefront of public attention on several occasions. Concerned delegates have passed through the jail – members of the legislature, royal commissions, grand juries, coroner's juries, and representatives of the media – observing conditions that should be rectified and offering recommendations for improvement, and the Superintendent has been called upon to help them gain an understanding of the problems of the jail. Indeed, many a man in this position must have realized that, while Governors and Superintendents may come and go, the institution with its problems remains – a test for each new Superintendent.

Besides this accountability to the public, the Superintendent has roles within the institution towards the other three groups. He must carry out the Ministry's directives, give positive support to his staff, and at the same time be

an objective figure of justice to the inmates. His officers must not feel that their judgment is being questioned continually, nor must the inmates feel that their rights are being ignored. On occasion, this latter dual obligation is a challenge to the jail's chief decision-maker, particularly when the issue to be decided is a case of assault.

Assault on an inmate by a correctional officer implies the use of excessive force by a member of his staff, and the Superintendent must decide whether a charge should be investigated internally or referred to an outside agency.

When an officer alleges an assault by an inmate, or for that matter any other misconduct, the decision whether to lay charges is usually made by the officer himself. The Superintendent's misconduct hearing is referred to below.

The Superintendent's morning at the Toronto Jail begins early. He meets with the shift supervisors and those of the Superintendent Group who are on duty to discuss matters directly related to the inmate population and any administrative business that needs settling. After reading the Misconduct Reports, the Superintendent begins his daily contact with the inmates. In what is known as the "Superintendent's parade", inmates who have, the previous day, requested an interview are conducted individually to his office. In his private discussion with the Superintendent, the inmate may verbalize any complaint he has, or seek advice concerning personal problems. The Superintendent answers what questions he can and refers those that require specialized advice to a social worker or to Legal Aid.

It was estimated by former Superintendent Gerald Whitehead that this open-door policy resulted in more than 500 interviews each month. No doubt most inmates learn of the privilege through their own grapevine. But to make certain that each inmate knows of his right to be paraded before the Superintendent, the information should be specifically made known by notice to each incoming inmate. Inmates should be given to understand that any complaints they have regarding their treatment may be voiced directly to the Superintendent.

In addition to the parade held in his office, the Superintendent travels through the jail, as do his deputies and assistants. Once again, this is to give the inmate a feeling of direct accessibility to the jail's highest officials.

The Superintendent daily visits all segregation areas and satisfies himself as to the physical and mental well-being of inmates held there. He also hears any complaints inmates may wish to make and he considers the possibility of early release for them. It is usually close by that he conducts misconduct hearings, and in this connection he interviews the officer or officers concerned, the inmate, and any witnesses the inmate wishes to call. Depending on his analysis of the case, he decides whether the charge is warranted, and, if so, what the punishment should be.

During the inquiry, the then Superintendent William Taylor expressed dissatisfaction with the paucity of sanctions available to him, saying that these were basically limited to a warning and segregation. (Forfeiture of statutory remission is another punishment less frequently used.)

The position of Superintendent at the Toronto Jail is a very demanding and responsible one. It was mainly because of the responsibilities and pressures they had experienced that former Superintendents Whitehead and

Taylor suggested that the term should be limited to three years. The Commission endorses this suggestion for a number of reasons. In the spirit of the old maxim, "a new broom sweeps clean", a new Superintendent brings the vigour and enthusiasm of fresh ideas to old problems. A limited Superintendent's term would also have the effect of stimulating upward mobility in the careers of those senior officers who are deserving and are waiting at the mid-management level for openings to the Superintendent Group, as well as of Deputies and Assistants of this group who are waiting for a Superintendent's posting. With more frequent opportunities for lateral transfer, the Superintendent could participate in the management of different types of institutions until, ultimately, his administrative expertise would be of considerable benefit to the Ministry of Correctional Services.

For the Superintendent too, therefore, the position should not be the "end of the line" but should give him an opportunity for further challenges within the Ministry. His experience and ability would then enure to the Ministry's benefit.

As for the Toronto Jail, no matter who takes charge, no matter what breadth of vision or correctional philosophy he may possess, the Superintendent will continue to be severely hampered in his task until he has an efficient building at his disposal and sufficient staff to man a modern correctional program. The number on staff should permit the luxury of turnover, and allow for the absence of officers because of illness or time needed for their training.

My attention was drawn to an interesting and thought-provoking article by Sylvia Kronstadt in a 1975 issue of *Penthouse* magazine, entitled "The Wardens". Although referring primarily to the New York City equivalent of the Toronto Jail Superintendent, some of the observations attributed to the heads or senior officers of that city's various jails are worth quoting:

We get the ones that everyone else – including the family, the church, and the schools – has failed. They say, "Here, you do it. But don't hurt them, and don't let them escape. Don't expect any credit for what you do, or anyone to speak on your behalf. And especially don't ask for any money."

For men who are caged and utterly controlled by other men, manhood becomes a fragile treasure. In jail the only alternative to becoming a fearful and obedient child or a faceless number is to define manhood, to stake out its limits, to verbalize its ethics and to exert it in the few ways – most of them surreptitious – that are available. Prison life then becomes a continuum of skirmishes to preserve dignity, and all sorts of unlikely issues take on exaggerated significance.

"Just treat me with some sensitivity man," inmates often implore.

But, according to Captain Vernon Bain, you can't run a jail with sensitivity.

"It's not a sensitive business," he says. "You're holding people who do not want to be held – who, in many cases, don't recognize your authority to hold them. They'll feel mad and demeaned no matter how you treat them because you can't give them the only thing they really want, and that's

their freedom. You can't conduct a 'sensitive' search. You have to rummage into everything, poke at it, feel around."

"It's not a bowl of cherries – it's tension, obstacles, all the time – but it can become your life, don't you see?" Warden James Thomas, who faces mandatory retirement this year, says sadly, jamming his cigar into the ashtray. "After all these years, after all I gave to the thing, they could hold a farewell party for me in a phone booth."

THE REPORTING AND INVESTIGATION OF ALLEGED MISCONDUCT

The manner of dealing with incidents at the Toronto Jail involving alleged excessive use of force, or injury to inmates, or serious breaches of discipline by inmates, has a significant bearing on the conduct and attitudes of inmates, as well as on staff morale.

Inmates must see that credible avenues for expressing legitimate grievances and complaints exist, particularly in so far as allegations of mistreatment by correctional officers are concerned. The inmate must also know that he will be given a fair hearing in a misconduct case, that an impartial investigation will be conducted, and that he will be informed of the conclusion of that investigation. Also, inmates should not be afraid to lodge justifiable complaints out of fear of reprisal.

Correctional officers cannot carry out their duties if they do not feel supported, with reference to any legitimate charges they may bring against inmates, by the jail's senior officers and the Superintendent. They must not feel that everything they do will be questioned and that they will be subjected to censure as a result of frivolous allegations by inmates. Many complaints are, as the Commission's experience has demonstrated, unjustified or exaggerated. It is crucial that correctional officers know that those responsible for investigating inmates' misconduct and complaints are fully aware of the difficulties involved in running a corridor and supervising inmates who express overt hostility, who face long sentences, or who are emotionally disturbed. They must also feel confident that, when an inmate's behaviour is sufficiently unacceptable to result in a Misconduct Report, appropriate disciplinary action will follow and that the resulting punishment will have some reasonable chance of deterring the offending inmate as well as other inmates.

Correctional officers should know that investigations will be conducted in an informed and responsible manner, and inmates should know that unacceptable actions by correctional officers will not be hidden behind a wall, or conspiracy, of silence. Inmates must also be made aware that irresponsible or false allegations by them will not go without punishment.

During the hearings, instances came to light of inmates' reluctance to report mistreatment by correctional officers. Various reasons were given for this, such as fear of reprisal, a desire not to "rock the boat"; and, as one inmate said, "there's no sense in complaining to somebody who is obviously the other man's boss. I'm a convict and he's a guard." In some cases the allegations were not substantiated and there was some suspicion by the Commission that, had the incident occurred as later alleged, a complaint would in all probability have been made at the time. Inmates' allegations of assault by correctional staff, when brought to the attention of the Superintendent, have been investigated, usually by outside agencies.

The problem, therefore, was not one of whether the matter is considered seriously by the Superintendent, but rather one of having an alternative procedure for the reporting of allegations of mistreatment. The question of employing justices of the peace for the purpose of hearing such allegations was considered and discussed during the Commission's hearings. For those wishing to pursue the matter in greater depth, a reading of the evidence of Donald Malcolm McLeod, a justice of the peace, is recommended (Commission transcript, Vol. 87, page 15,748).

The justice of the peace's primary function at the Toronto Jail is in connection with applications for bail and inmate release. Any justice of the peace in Ontario is empowered to hear complaints and to decide whether charges should be laid. The procedure at the Toronto Jail with reference to an inmate's complaint is similar to that for any other citizen. The inmate may, like anyone else, swear out an information alleging an assault. The justice of the peace then decides, at his own discretion, whether a process (i.e., a summons) should be issued. In this regard, he has access, if necessary, to the crown attorney (usually the local one) for legal advice. The justice of the peace may wish to hold an informal hearing before deciding the matter of the issuance of a process, and he may suggest that the person wishing to lay the charge bring witnesses before him. A complaining inmate may then have to arrange with senior staff or the Superintendent to compel the attendance of a witness or witnesses.

If the justice of the peace decides that the matter should proceed, then he will issue a process (or summons) and the case will be heard in the criminal courts. If he decides otherwise, that is the end of the matter, subject to the inmate (or his lawyer) appearing before another justice of the peace and convincing him that a charge should be laid.

Not all inmates are aware of their right to speak to the justice of the peace present at the jail. They should be notified of this right in the information booklet which, it is recommended, should be given to inmates on admission to the jail. Such information should also contain a warning about false accusations.

Some inmates would prefer to make their complaints to the justice of the peace rather than to the Superintendent, considering the former to be more independent and further removed from the "jail establishment". This is an inmate point of view, and it is not intended in any way to be an adverse criticism of the Superintendent. But, in the past, even when an inmate sought recourse to a justice of the peace, the procedure was not always satisfactory.

The justice of the peace did not automatically have access to the files of the jail or the Ministry. It also appeared that a complainant was sometimes dissuaded from entering a formal charge, in that he was advised (at times wrongly) that he would have to remain in the Toronto Jail until the charge could be brought to court. It was further indicated in testimony that one inmate was advised that it might be six months to a year before his charge could be heard. Of course, this did not mean that his stay in the jail would be prolonged past the end of his sentence. Thus, the information given by at least one justice of the peace indicated that inmates were not exactly encouraged to lay charges.

If the justice of the peace is employed as a means for inmates to lay complaints, guidelines to standardize the procedure, and to prevent unwarranted dissuasion of inmates, should be clearly set out.

It is an inherent right of an inmate to complain directly to the Superintendent of any mistreatment he might receive at the hands of the correctional staff. And, no matter what other procedure the inmate might choose, it is imperative that the Superintendent also be advised of the complaint, as he is the one ultimately accountable for the actions of his staff. In addition, the Superintendent should have an opportunity as soon as possible to conduct an internal investigation or refer the matter to the Ministry's investigation branch, or to the police, depending on the circumstances.

There are two other channels of redress that I propose now to consider. One is in existence, the other is contained in the Commission's recommendations. The one now existing is the right of recourse to the Ombudsman of Ontario. According to The Ombudsman Act 1975, Statutes of Ontario, c. 42, s. 15, the Ombudsman may investigate complaints made to him with reference to any act done or any omission "in the course of the administration of a governmental organization and affecting any person". Complaints made are to be in writing. Procedure and powers are set out in the Act.

The other channel for complaints, which it is strongly hoped will be made available to inmates, is the proposed Toronto Jail Council, which should provide a channel of communication for correctional officers as well as inmates. The composition that is proposed for the Council would ensure that the chairman would be available throughout the work week to hear allegations of assault and to initiate investigations through the Ministry, the Superintendent, or the police, depending on the circumstances. He would have power to convene the whole or part of the Council. The Council might wish to forward reports and make recommendations to the Superintendent, or to the Ministry's regional office, or to any department of the Ministry, or directly to the Deputy Minister. If the Council deemed it advisable, it should, when reports that should be implemented are not implemented, address matters directly to the Minister, or to the Lieutenant-Governor-in-Council, or to the Legislature as a whole. With reference to single complaints of assault, it is not envisaged that the matter would often proceed past the Superintendent or the regional office. Other aspects of the proposed Toronto Jail Council are discussed in the Commission's recommendations.

The Council should have the power to hold its own inquiry hearings and to subpoena witnesses and documents pursuant to Part II of the Public Inquiries

Act, Statutes of Ontario 1971, vol. II, c. 49.

Mention has been made of the Ministry's own investigative powers. There are inspectors in its Inspection and Standards Branch. Two of these inspectors, Michael Villeneuve and Norman Jones, gave evidence before this Commission. Mr. Villeneuve's evidence related to his investigations of the allegations of inmates Frost, McPherson, and Martin. Mr. Jones's evidence was referable to letters from C.O. 2 Cyril Boakes and C.O. 2 William O'Leary and to statements of Gary Dassy, C.O. 4 George Wilson, and Jane Mannerholm.

The interests of the various investigative and reporting persons and bodies differ. They might be summarized as follows:

Superintendent – internal management of the Toronto Jail. Reports of assaults and misconducts will normally be dealt with during the Superintendent's misconduct hearings. All Misconduct Reports should be reviewed by the proposed Toronto Jail Council so that it can get a reading of the tenor of the jail. The Council and the Ministry should have the right to review cases and even to re-open hearings where necessary.

Justice of the Peace – primarily responsible for bail and the release of inmates. Inmates and correctional officers may swear out informations and the justice of the peace may initiate processes where he deems the same proper and the subject matter is referable to a crime under the Criminal Code of Canada, e.g., assaults. These cases will then be heard in the criminal courts.

Ombudsman – has the duty to receive complaints pursuant to The Ombudsman Act. It is envisaged that complaints arising from individual acts alleged to have been committed in the Toronto Jail will be referred to the proposed Toronto Jail Council, since the latter will have an intimate knowledge of the jail and will be working closely with it.

Toronto Jail Council (proposed – see Recommendation 1) – inmates and staff to have direct access to this independent body. The Council should have power to have complaints investigated, to hold hearings, and to report and make recommendations.

Inspection and Standards Branch – the investigative arm of the Ministry. Its investigations may be initiated by the Ministry as a result of complaints made directly to the Ministry or as a result of complaints made to others (such as the Superintendent), the Ministry subsequently being advised. Its investigations might equally be sought by the other persons and bodies mentioned in this summary.

Metropolitan Toronto Police – The Toronto Jail is within the geographical area for which the Metropolitan Toronto Police have policing responsibility. Included in that responsibility is the investigation of breaches of the Criminal Code of Canada. One of the offences under the code is assault. The Metropolitan Toronto Police, therefore, have the right, when called upon, to investigate any assault alleged to have occurred in the Toronto Jail. If it is considered that there are proper grounds for doing so, an assault charge may be laid, and the case will be heard in the criminal courts.

There was evidence at the Commission hearings that revealed that, on occasion, when the Superintendent considered that an independent outside

investigation was warranted, the local division of the police force was called. This would not have precluded a simultaneous internal jail investigation or Ministry investigation, with different purposes in mind. Inmates also have the right, as other citizens do, to report assaults to the police; this may be done in person or through others, including lawyers.

One would not expect interference between two or more investigations, however, and the fact that there was an ongoing police investigation would probably mean that its findings would be awaited before any other investigation was undertaken. Apart from the possibility of different considerations, one body might be investigating a particular aspect of a matter while another body was dealing with it in a much broader way.

An example of non-competing but separate investigations occurred in connection with the Frost allegation. Originally, a misconduct charge was laid by C.O. 2 William Stafford against inmate James Frost. Ordinarily, this would have resulted in a hearing by Superintendent Whitehead. Indeed, he did open such a hearing but quickly decided to refer the matter to the Ministry. The Ministry's investigation was carried out by Inspector Ville-neuve. Since Frost was one of the inmates who Gary Dassy said was assaulted by the correctional staff, the matter was also heard by this Commission. The Commission's investigative staff was comprised of officers from the Metropolitan Toronto Police who were seconded to the Commission. Among the more than 100 allegations they investigated was the Frost Allegation. In that matter alone, 56 witnesses were called to give evidence.

As for the Toronto Jail's channel for reporting incidents, some inmates expressed the view that there was no point in making allegations of assault to senior officers, for then the matter might be reported back to the line officer who, they feared, might take further action against them. Another objection was voiced by inmate David Machan, who stated that he had complained to two senior officers alleging assault and abusive language by a correctional officer and that neither senior officer had paid any heed. Others had similar complaints. It might therefore be imagined by some inmates that senior officers, as part of the jail establishment, would do nothing about their complaints. These matters were inquired into separately in each case to test the validity of the allegations. Usually, there was some other possible interpretation, in addition to the one given by the inmate. The matter is mentioned to show that some inmates might be reluctant to refer a complaint of assault, at least to certain senior officers. There was even a reluctance on the part of some inmates, for similar reasons, to complain directly to the Superintendent, or so they later said. I did not find any instance in which Superintendent Whitehead or Superintendent Taylor, or any of their Deputies or Assistants, neglected to consider any complaint. Whether they considered every complaint legitimate is another matter.

It is suggested that, to allay suspicion on the part of inmates and public, all complaints against staff of excessive use of force that are made to other line officers, senior staff, or members of the Superintendent Group should automatically be the subject of a report to the proposed Toronto Jail Council for its consideration and, in its discretion, for further review.

While inmates are somewhat less likely to consider medical or social-

worker staff as part of the establishment, and are therefore more inclined to approach them with complaints of mistreatment, such staff on occasion have been hesitant to pass such complaints on to the Superintendent. One nurse, in response to a question as to how she would deal with allegations of physical force, replied: "I don't try to get mixed up with it . . . I stay away from it. I don't want to hear these things. I look after the injuries. Sometimes they might have got it on the outside, you know. It is hard to know where he got it."

Another nurse, Jane Mannerholm, said: "You don't squeal." A social worker, Carol Eldridge, testified that, after consulting with a colleague and receiving the option of submitting a report on a particular officer, she decided not to. In the meantime the inmate had decided that he did not want the matter carried further. She stated that she just "logged the name" for further reference. The reluctance of social workers and medical or nursing staff to report adversely on correctional staff stems from the fact that they consider them to be fellow workers whose co-operation is necessary to them, for the carrying out of their responsibilities.

There was evidence before the Commission that lawyers had not always passed on complaints of alleged ill-treatment to the Superintendent. In one case, an inmate was said by his lawyer to be a chronic complainer, and was told to "forget about it". Some lawyers seemed to take the easy position that assaults are part of the "give and take" of being in jail and recommended a "don't-rock-the-boat" attitude.

There were instances when no record was made in log books, or no written report submitted of complaints of mistreatment. It is strongly recommended that all such complaints or allegations made to anyone – line officers, senior officers, medical or nursing staff, social workers, lawyers – should be followed by an immediate written report to the Superintendent. Making such reports obligatory would have the effect of removing any option from correctional and other staff, thereby eliminating the contention that they would lose co-operation by reporting on colleagues.

As for lawyers who become aware of allegations of mistreatment, even if there is some doubt in their minds about the seriousness of the incident or the *bona fides* of the complaint, they should realize that they have a duty to their clients to report the matter to the Superintendent or, if the proposed Toronto Jail Council is brought into being, they may prefer to report directly to it. If they report to the Superintendent then, as mentioned elsewhere, after investigating the matter he should himself make a report to the proposed Toronto Jail Council and also to the Ministry's regional office.

As for family and friends, there was some reluctance among these two groups to pass on information of alleged unnecessary use of force. There is no way that they can be compelled to do so. Booklets distributed to inmates on admission to the jail should contain advice about reporting all assault allegations to the Superintendent or the Toronto Jail Council, as well as the information that if an inmate is reluctant to do so himself he could ask his lawyer, a member of his family, or a friend to do so on his behalf.

Although the above has been discussed on the basis of inmate complaints against correctional staff, it is equally valid for assaults alleged to have been

made by inmates on inmates. In the latter instance, the correctional staff will most likely have made a report and may already have placed the offending inmate on charge. It is also assumed that correctional officers, if assaulted by inmates, will make reports to a senior officer or directly to the Superintendent.

The reporting of incidents of alleged assault should be immediate because of the Toronto Jail's large transient inmate population. Special forms for reporting alleged assaults should provide for the inmate's name and home address, date and time of the incident or complaint, names and addresses of witnesses as well as details of the incident or complaint, and all other relevant information.

Unfounded allegations of mistreatment, which can be shown to be malicious or intentionally false, should, it is recommended, be made jail offences. Inmates should be informed of this at the same time that they are informed of their rights.

The procedure for completing and processing Misconduct Reports is described in the Standing Orders of the jail. The report form itself has been amended and improved in recent years. It is important that every completed report should contain all of the types of information discussed during the Commission hearings.

With reference to the misconduct hearing itself, it is the Commission's opinion that this should continue to be conducted in its present summary and informal manner. Although there have been suggestions from time to time that the inmate should have the right to be represented by counsel, and that the proceedings should be recorded, it is my opinion that these changes would adversely affect the purpose and efficiency of the misconduct hearing as it now exists. The proposed Toronto Jail Council, having the right of review, could decide whether there should be a re-hearing with counsel and full record.

SEGREGATION

The matter of segregation must be considered in this report, since it involves duties of the correctional staff, namely the manning and looking after of the segregation areas of the jail. It also is relevant to the topics of discipline and correctional officer-inmate relations.

The evidence heard by the Commission indicated that the segregation or "dissociation" cells of the Toronto Jail were rather frequently used.

Inmates were placed in segregation as a punishment for specific offences with a view to discouraging the errant inmate and other inmates from engaging in disruptive conduct. This might have been noisy or abusive behaviour that disturbed other inmates and tended to disrupt the smooth running of the jail. Inmates who were involved in incidents resulting in misconduct charges were taken to segregation and held there pending hearings before the Superintendent or his senior Deputy or Assistant in the jail at the time. Usually

the hearings were held the following morning.

The segregation cells were also used in non-disciplinary cases for protective custody, usually at the request of the individuals involved. Such inmates might have felt threatened by the rest of the jail population; included in this category were informers, suspected sex offenders, and child-molesters.

The segregation cells were at one time used for holding psychiatric cases for whom there was no space in the psychiatric area. C.O. 5 Donald McKay had referred in his evidence to the segregation cells being three-quarters filled with the overflow from the 1A psychiatric hospital, turning the segregation area into a "Bedlam" with shouting and roaring during the night when sedation had worn off. With the later reallocation, and the increase of the space given over to psychiatric and suspected psychiatric cases, it was no longer necessary to use the segregation facilities for this purpose. Inmates now housed in the newer fourth-floor psychiatric wing are, of course, subject to removal to segregation for misconduct.

On occasion, inmates desiring a respite from jail noises and close confinement with others requested segregation as a quieter and more private retreat. When accommodation permitted this and the request was granted, inmates would be transferred, presumably retaining their jail "privileges" and diet.

It was revealed at our hearings that segregation was at times used as a means of eliciting information from inmates. The old and supposedly condemned cells in the basement in the old section of the jail were used for this as well as for punitive purposes. When this occurred, it was usually for relatively short periods of time. One instance came to light of those cells being used overnight for an unruly inmate who was causing a considerable disturbance in the new segregation cells.

On the other hand, a few aggressive inmates may have actually sought segregation with bravado, considering it a badge of manhood or experience in the prison sub-culture to have spent time in segregation.

Certain abuses and claims of hardship and harassment were made by inmates who were in segregation. The most frequent of these was the claim of some inmates that they were placed naked in the cell and without any blankets. The explanation given was that unruly inmates who refused to change their jail blues for the segregation garment known as "baby dolls" were stripped of their blues before being placed in the cell as these could easily be torn and then used for self-injury or self-destruction by an inmate who was in a disturbed state of mind. It was indicated that the segregation garment would be thrown into the segregation cell, presumably after only a short interval. As for blankets, these were allowed during the night and not during the day. Since the blanket was tear-proof and the inmate was not given the run of a day area as he would have been elsewhere in the jail, one would have thought that a blanket would be provided in cold weather. True, the intention of segregation was to punish, but isolation and at times a restricted diet are punishment enough, without also making an inmate endure the cold. One inmate had complained that, when his mattress and blankets were removed at 5:30 one morning, his only way of keeping warm was to run on the spot.

As for harassment, inmates alleged that officers at times leered, laughed,

and mocked at them while they were in segregation. No findings about this were made, except in the case of former correctional officer Gary Dassy. If such incidents took place, they were not justified. Some of the inmates may have misunderstood the actions of the officers, who had to observe them in segregation by looking from time to time through the small window in the outer door. More serious was the allegation that a correctional officer who was not on segregation duty would, on rare occasions, enter the cell of a segregated inmate and proceed to assault him. Such behaviour on the part of staff, if it occurred, would be intolerable. This matter is dealt with further in the allegations sections of this report. The use of closed circuit television in the segregation area, together with the most severe disciplinary action, including (where warranted) dismissal, should serve to prevent such conduct.

A more frequent complaint was that an inmate would be punched in the ribs and abdomen while in the act of donning his segregation garment, and while the baby dolls were over his head. The incidence of and circumstances surrounding such allegations lead one to the belief that this did occur at times. Closed circuit cameras, clear warnings, and severe disciplinary action against those involved should prevent this in future, if it has not already stopped as a result of coming to light during our hearings.

Overcrowding in the Toronto Jail, shortages of personnel, and inadequate supervision of line officers and inadequate record-keeping have, in the past, led to some abuses in segregation. The Commission is also concerned that segregation has been, on occasion, overused and that alternative approaches to dealing with "difficult" inmates have not always been given sufficient consideration, particularly in cases where the misconduct of the inmate has been relatively minor.

This is quite different from advocating that segregation as a sanction for breaches of discipline be eliminated. Segregation is to the jail or prison, as a way of controlling behaviour, what jail is to society. The fact that segregation is used as a deterrent does not, in any sense, justify the use of excessive force in dealing with inmates being taken to segregation or their harassment or abuse by correctional officers while in segregation. Nor does it make inhuman conditions in segregation cells acceptable. Such cells must be adequately heated and lighted and provided with at least a minimum of the facilities required for the maintenance of human dignity. It is also crucial that correctional officers dealing with segregated inmates be properly supervised, that adequate medical services be available to such inmates, that adequate records be maintained, and that inmates be aware of the procedures that exist for the voicing of grievances and for investigation of allegations of mistreatment.

Mr. Justice Heald, in *McCann et al. v. The Queen et al.* (1976), 29 C.C.C. (2d) 337, said that the evidence of expert medical witnesses affirmed that "Isolation as a punitive technique sometimes serves only to exacerbate problems of aggression and resentment and, since in such cases it is obviously counter-productive, it should be abandoned."

It was also stated that inmates in segregation exhibited heightened anxiety and stress and that "people were more resentful and hostile if they did not

understand why something was being done to them”.

In spite of Mr. Justice Heald's strong condemnation of conditions in the solitary confinement unit, he does not recommend the complete elimination of such confinement: “There can be no question of the need for administrative dissociation in a maximum security penal institution, *inter alia* ‘for the maintenance of good order and discipline in the institution’.”

As for the segregation facilities at the Toronto Jail, the cells in the new section are adequate in size; they are equipped with metal beds and have floor-type, automatic-flushing toilets. (The reason given for this latter is to prevent the stuffing of a toilet with clothing or bedding to cause an overflow of the area. It is to be noted that the segregation cells in the new Metropolitan Toronto detention centres have regular toilets and are furnished similarly to the regular cells.) At the Toronto Jail, a sink is located in the area between the double doors (see chapter on the geography of the jail). The inside doors have a glass opening for observing inmates, and the solid outside door is left open except in unusual circumstances when the noisy behaviour of an inmate would disturb others in the segregation area.

In addition to the baby doll segregation garment, non-tearable blankets and mattresses are issued. There is a 4½" to 5" aperture at the bottom of each door through which meals are passed. Special cells, ironically referred to as “bridal suites”, are used for particularly difficult inmates; they are without beds.

There is a small exercise area adjacent to the segregation cells. As has been mentioned elsewhere, it is rarely used. The reason given is lack of correctional staff to supervise it.

The segregation cells in the old section of the jail have been condemned and were not often used. When they were used, it was for a short period, as when there was an emergency need for isolation and the new segregation cells were fully occupied, or when an inmate who had been lodged in the new segregation cells was in such a state, “screaming and yelling and bashing on the door”, that he was disturbing the whole jail. In some instances, the use of the old cells could be justified by balancing the welfare (or the discipline) of the jail and its population against the discomfort of a single inmate.

The question of whether there was a specified maximum period that an inmate should remain involuntarily in segregation came up during the hearings. One inmate, Patrick Pirozzi, was kept in solitary confinement for more than 40 days during the summer of 1972. It was stated that it was theoretically possible for an inmate to remain in segregation throughout his stay in the Toronto Jail.

It is recommended that there should be some limit to periods of segregation and that these should not be in excess of 10 days without a review by and authority from the Ministry's Area Supervisor. If one were to coop oneself up in (say) a bedroom for a period of 10 days, depriving oneself of reading material, radio, and television, keeping the drapes drawn to avoid looking outside, one might get some idea of the impact of isolation with all its boredom.

If an inmate is released from custody at the end of a 10-day period and shortly thereafter again breaches the regulations, there is nothing to prevent

a further Misconduct Report and hearing and a further sentencing. However, there should be a report to the Area Supervisor when an inmate has spent 20 days or more in segregation in any one month.

In addition, the recommended Jail Council should review all Misconduct Reports, and particularly those concerning inmates who have served more than 10 days in segregation or are in segregation for 20 days or more in any one month. In its discretion, the Jail Council should have the right to call witnesses, including the sentencing officer, the inmate, the reporting officer, and any others who may be of assistance.

Non-voluntarily segregated inmates are deprived of all reading material except the Bible. They are not allowed purchase order requisitions or any other privileges. In addition, some of them are placed on a restricted diet, if this is ordered as part of their punishment.

Since the Commission began its hearings, daily medical examinations have been instituted for those in segregation. In addition, the inmate is now examined before entering as well as on leaving segregation. It is suggested, further, that the times of medical examinations, as well as the dates, be recorded to assist in the investigation of any allegations. In addition to noting any complaints of injury, marks, or bruises, the medical staff should be on the alert for individuals whose mental or physical state makes placement in segregation inappropriate. Cases that should be transferred to a psychiatric facility might also be recognized at these times.

Reference has been made elsewhere to the need for strict enforcement of the rule that inmates should be escorted to segregation under the supervision of a senior officer and that this senior officer should remain until the inmate is safely in his cell. The officer in charge of the segregation area is required to make rounds, looking into each cell at least once every 15 minutes. He should, of course, immediately report any bizarre behaviour or suspected suicidal tendencies.

It is also recommended that a signal button that can be activated by the inmate be placed inside each segregation cell. We have seen this in other institutions. The button activates a light signal outside the cell and there can be a similar light panel at the segregation officer's station. There is a twofold purpose to this. The apparent one is that it would enable the inmate to summon emergency help between the officer's rounds. The second is that it would reduce the inmate's claustrophobic feeling; he would know that he had some means of communicating with the outside world, if only with the segregation officer, in an emergency. In some institutions we also saw a two-way voice communication system.

In comparison with some segregation areas seen in other institutions outside Ontario, that of the Toronto Jail is not bad. Some were almost without illumination. Others were excessively hot, with observation only from the ceiling.

The segregation cells in the new Metropolitan Toronto detention centres are an improvement over those at the Toronto Jail, even permitting a view of the scene outside the jail. Such a modification could not be made at the Toronto Jail.

Mention was made of communication from inside the cell to the segre-

gation officer, by voice or signal light. It is anticipated that there might be some annoying abuse of this by a disruptive inmate. In such a case it would be necessary to bring to the inmate's attention the danger of crying "wolf" once too often, which would lead to the signal being cut off or disregarded. For most inmates, it would provide some easing of the fears, tensions, and rigours of segregation.

SECURITY

The Commission recognizes that the Toronto Jail is faced with complex and difficult security problems because of the varied nature of its largely transient inmate population. This population includes persons on remand awaiting trial, persons awaiting appeal, and inmates serving short-term sentences. Several factors complicate the security situation. The jail has to cope with some inmates who are severely maladjusted, medically, socially, and psychologically. The facilities for housing and servicing inmates in the old section of the jail were inadequate. At times there has been a shortage of correctional officers, including qualified specialist support personnel.

Correctional officers are responsible for maintaining order within the jail, for the prevention of escape, for the protection of inmates in their custody from threats, harassment, or injury, as well as for the enforcement of the criminal law and jail regulations, particularly with respect to drugs and other contraband. These functions on occasion are made more difficult by the need to deal with persons under the influence of drugs or alcohol, or exhibiting extremely disturbed behavioural patterns or symptoms of illness. At times, too, correctional officers must cope with hostile young persons.

Incoming inmates were classified for accommodation purposes according to:

- (a) *The nature of their offences.* Serious offenders were placed in the new section, where there is better security.
- (b) *The state of their health.* Inmates requiring psychiatric care or assessment were assigned to psychiatric corridors and those suffering from physical illness were placed in a hospital dormitory.
- (c) *Their age.* Young inmates were formerly generally housed in the old section.
- (d) *Special problems.* Informers, suspected sex offenders, and homosexuals were housed separately.

The security classifications of jails and other penal institutions are maximum, medium, and minimum. The Toronto Jail is in the highest of these three – maximum. Although this security status is not required for the majority of its inmates, there is a justification in the case of the Toronto Jail, at least at the present time. Whereas some jails or institutions may combine two of the categories, for example, maximum and medium, the Toronto Jail, because of its physical setup, its large transient population, and the

demands on its correctional staff, cannot easily be divided in such a way as to accommodate two separate classifications.

A non-correctional staff witness who worked at the jail estimated that 90 per cent of inmates could be housed in a lower-security category, but added that it is for the "unknown remainder" that maximum security is required. He believed that "a better system of classification would help, but this is almost a task too big to be considered".

Some of the inmates awaiting trial at the Toronto Jail face such serious charges as murder, manslaughter, rape, arson, armed robbery, and other crimes of violence. Others are awaiting transfer to federal penitentiaries, following pronouncement of lengthy sentences. For these inmates and even for many others who may be considered unpredictable, there is a need to guard against escape and for measures to protect staff and fellow inmates from attack.

Despite the maximum security designation of the jail, there are inmates there who may be considered relatively safe. These were formerly housed in the older section. Some of them are permitted considerable freedom and work as corridor men or kitchen helpers.

During our visits to various institutions, we found that there were certain areas in each where trouble was more apt to break out and where more precautions were called for. Such areas, in the Toronto Jail, include the "court cells", which do not exist in all institutions. In most jails and detention centres, inmates are taken directly from their cells to the various courts. Because of the physical set-up at the Toronto Jail and the significant numbers involved daily, intermediate overnight housing is adopted, in areas known as "court cells". On return to the Toronto Jail, the inmates are brought back to the court cells before being dispersed to their corridors. An exception may occur to this routine when a single inmate has to be transported to or from the jail.

It was pointed out that the likelihood of trouble arising in the court corridor is considerable. As C.O. 2 Joseph Peake said:

Everybody is tense, either going to court or coming back from court, and then we have new arrivals, people who have never been in jail before. They are tensed up. They don't know the code the inmates have in there which could pertain to even talking to the guard in a friendly manner in some instances; or they may talk back — you know, be nasty with another inmate, and the next thing they are punching him or kicking him or something like that. So the potential is always there, a very explosive situation actually. The man could be high on drugs; he could have a mental problem; he could be a homosexual and has slipped through the screening such as we have when they are coming in; and could cause all kinds of situations to develop.

In terms of numbers and using statistics for the five weekdays of the week of October 3, 1977, the average daily male population of the Toronto Jail was approximately 500. The numbers sent out to various courts from the jail, Monday to Friday, were, 101, 47, 69, 69, and 78. Instructions for dealing with trouble were to isolate the individuals involved by removing them

in the case of the court cells (Corridor 7) to Corridor 8, if space was available, or to the small reception area opposite Corridor 8.

Since searches are carried out in the admitting area, this is considered a potential trouble spot. Inmates are funnelled through the search procedure in a single stream so that each officer faces only the minimum confrontation situation: one-to-one. A filed diagram of the search area showed six search booths. These may be used simultaneously. The situation of four or five inmates to one officer never develops.

Since search procedures must be thorough and involve examination of intimate parts of the body, care must be taken to avoid humiliation of inmates and provocation that could lead to confrontation. Male nurses should be available to assist in difficult search situations. The practice of having the staff involved in search procedures wear white coats might be re-introduced as one way of reducing tension in this area. If this is done, a supplementary method of distinguishing medical and non-medical staff is needed so that inmates do not get the impression that correctional officers are male nurses. The search procedure can be very upsetting since it constitutes, for first-time inmates, their initial experience in custody. The interviewing involved in the documentation of new arrivals must also be kept as private as possible to avoid embarrassment to the new arrival and to prevent possible bias against him on the part of other inmates. Making an inmate call out the charge against him, or other personal information (as was observed in another Ontario institution visited) can be the cause of subsequent harassment by other prisoners, particularly in rape and child-molesting cases. Besides this, groups of inmates arriving from other institutions or from court require special treatment on some occasions. Advance information about difficult inmates should be provided so that they can be separated from the group immediately upon arrival.

Evidence presented to the Commission indicated that "there have been more incidents with reference to inmates being escorted to and placed in segregation than in connection with any other type of confrontation". Although such incidents have not involved significant breakdowns in security or escape attempts, they do detract from the overall discipline of the jail. Supervision of such movement by a competent senior officer with training and experience in "talking down" hostile and agitated inmates can contribute to reducing the number of such incidents and provide an element of control over the conduct of correctional officers where there might be a temptation to "punish prior to the hearing . . . convey an object lesson . . . try and ensure future behaviour and . . . maintain the reputation of Toronto Jail being a 'tough jail'".

Inmates are placed in segregation, often, as a result of seriously disturbed or hostile behaviour. There is always a potential threat to security in these areas. The Commission hearings contained a number of charges of the use of excessive force by correctional officers while placing inmates in segregation cells. There were also counter-claims of injury to an officer by an inmate, as well as inmate self-injury. Consequently, capable senior officers should be present when an inmate is placed in segregation. In addition, surveillance

of segregation areas should be constant. It is for these reasons that closed-circuit television is recommended for all segregation areas at the Toronto Jail, with monitoring sets in the Superintendent's, Deputy Superintendent's, and Chief's offices.

From the security point of view, the degree of separation maintained between inmates and their visitors seems sufficient to prevent the passing of contraband. Overtaxed correctional officers may, on occasion, contribute to inmate hostility by appearing to intrude on the privacy of an inmate's communication with his visitors, or to arbitrarily cut down visiting time. Visits can often be stress-producing, leading an inmate to become a threat to himself or to security. Nevertheless, visits are an entitlement of inmates. In many cases they are also a necessary relief from tension or boredom. The right to visits should not be unjustifiably restricted in time or privacy.

Criticism has been levelled at the glass partition and telephone communication system in the visiting area of the Toronto Jail. In other jails visited, it was noted that visitors and inmates were allowed to use visiting rooms wherein they were seated on chairs and separated by small tables. These rooms were presided over by observing officers who even allowed a certain amount of touching between visitors and inmates. The inmates were then searched before returning to their cells. Because of the maximum security classification I do not advocate changing the system in use at the Toronto Jail.

Procedures exist whereby, in extreme emergency, correctional officers may press buttons which sound alarm bells throughout the jail requiring all available personnel to report immediately to the indicated trouble area. In less urgent cases, telephones are used to call the senior officer on duty and request help of a specific type. Recently, walkie-talkie units were provided to officers. These reduce the number of situations in which alarm bells need to be sounded. This is an improvement, for the bells tend to make inmates and officers nervous and tense and may lead to escalation of a situation.

General counts of inmates are made throughout the jail at specified times. Special corridor counts are initiated by correctional officers when they have reason to be suspicious. Counts are also required when correctional officers replace each other at shift changes and when they are relieved for lunch and tea breaks. On occasion, an incoming correctional officer wrongly accepts the count of the officer he is replacing, without checking it himself. Supervision of correctional officers should ensure that the revised count procedures are, in fact, carried out, and the results properly entered in the corridor log.

There are no clocks in the inmate area of the jail. Ostensibly, the lack of clocks is a security precaution with the object of preventing inmates from co-ordinating escape attempts or uprisings. It has also been suggested that, if inmates do not know the time, they are less likely to complain about minor delays in such matters as the delivery of meals. The rule is obsolete since there are radios and television sets throughout the jail that can be used to obtain time information. In practice, inmates frequently ask officers for the time. As well as being inconvenient, such requests have provided the occasion for sarcastic replies and subsequent minor incidents. Although clocks are

present in most jails and institutions in Ontario, the matter is not significant enough to warrant the expense of installing them now in the Toronto Jail.

The primary functions of correctional officers at the Toronto Jail are custody and security. These responsibilities often conflict with other important considerations: the safety of inmates, the provision of opportunities for exercise and recreation, as well as programs aimed at the rehabilitation of inmates.

Often exercise has been denied inmates in segregation for security reasons, thereby depriving them of a safety-valve opportunity to work off tension. Set periods of exercise should be arranged for segregated inmates, even though at times this may require extra staff to ensure proper security. The segregation exercise area should be more than a label on an architect's plan, which is all it is at present, since the area is not used.

DRUGS AND CONTRABAND

Inmates in the Toronto Jail have on occasion been found in possession or under the influence of a variety of narcotic, hallucinatory, and pharmaceutical drugs. Incoming inmates have been reported to have behaved in a groggy or drugged way, to have displayed an inability to communicate, and to have acted in belligerent, irrational, or erratic ways. Inmates in custody have displayed similar behavioural patterns. In both situations, investigations have usually revealed a prior intake of drugs, sometimes intravenously, with little knowledge or concern about the effects.

It is known that there have been instances of successful smuggling of drugs into the jail in spite of the search procedures. In at least one case, a syringe was smuggled into the jail. There is no doubt that there has been some small-scale trafficking within the jail by inmates, sometimes to gain the approval of others rather than for profit.

The presence of drugs, although difficult to eliminate completely, is a matter of real concern. Not only is the overall discipline of the jail undermined, but those under the influence of drugs constitute a danger to themselves, to other inmates, and to correctional officers. In the past, inmates on temporary absence permits or intermittent sentences have been subjected to pressure and harassment aimed at getting them to smuggle drugs into the jail; with the elimination for the most part of these two categories of inmates from the Toronto Jail, this particular problem no longer exists.

It is estimated that most drugs that evade detection during searches have been hidden in body orifices. On one occasion described before the Commission, an inmate with sleight of hand skills was able to smuggle contraband by passing it from hand to hand while the searching officer concentrated on his body orifices.

Formerly, inmates were permitted to retain their own footwear. Then drugs were found in the internal linings of the shoes and in holes in the heels.

In one case, valium was discovered in holes drilled by the manufacturer in the heels of shoes as a normal procedure for reducing the shoes' weight. In another case, an inmate concealed a large number of tiny pills inside the sole of one of his shoes. Following these two incidents, inmates were required to exchange their shoes for jail footwear. In still another instance, drugs were discovered in a spectacle case. Recently an airport-type scanner was installed at the Toronto Jail to assist in the detection of contraband.

The Commission has no doubt that exhaustive skin searches are fully justified by the need to keep drugs and other contraband out of the jail. Such searches should not, under any circumstances, provide the occasion for abuse or intimidation of inmates. Correctional officers must be aware that drugs have in the past been obtained in outside courthouse cells. All staff involved in admitting inmates should also be trained in detecting symptoms of drug abuse and in the first-aid techniques required in drug emergency situations.

There is an advantage to having staff permanently assigned to body searches, but the duty is not a pleasant one, and it is therefore preferable to rotate personnel as much as possible.

Thorough searches of inmates' living and recreation areas should be carried out at random times, as well as whenever there is any reason to be suspicious. Contraband has been hidden around plumbing fixtures, and toilets have been used as a means of disposing of drugs when a search is seen to be imminent. It is stressed that, while such searches must be thorough, they should be conducted with minimum disruption of inmate property and should not be accompanied by abuse or harassment of inmates.

Inmates serving intermittent sentences and on temporary absence programs have been transferred for the most part to the Mimico Correctional Centre. It is, however, recommended that in any cases where it is necessary that such inmates be housed in the Toronto Jail they should be kept separate from other inmates.

There is currently considerable emphasis on preventing inmates who are involved in meal and purchase-order deliveries, or who work in stores and library areas, from having the opportunity to obtain or pass drugs or contraband. Security of knives, and other potential weapons, in the kitchen and surgery must continue to be of high priority.

The court cells, which are busy transient areas, require intensive supervision. For this reason, closed-circuit television is also recommended.

One inmate claimed that he had smuggled in pain-killing drugs because he could not obtain what he required from jail medical staff.

Records of drugs to be provided are maintained for each individual. Drugs are usually provided and taken in the presence of the nursing staff. This is to ensure that pills are not accumulated. The medical staff is aware that inmates may feign illness in order to obtain drugs.

Warning signs in the admitting and search areas, and the suggested pamphlet for incoming inmates, should contain the information that possession of or trafficking in drugs or contraband is a serious offence that may lead to criminal charges, loss of statutory remission, or segregation.

INMATE ACCOMMODATION, COSTS, AND DIVERSION

The topics of inmate accommodation, costs, and diversion are interrelated. All three touch upon the duties of correctional officers and are directly or indirectly referable to the demands upon staff at the Toronto Jail.

The duties incumbent upon a correctional officer are affected by the size of the inmate population. In days of restraint, the ratio of staff to inmates may not always be at the optimum, even though it may be an acceptable one. The capacity of the jail may be exceeded from time to time, and even for rather long periods. Overcrowding means that the physical plant is operating beyond its designed capacity. The result is a taxing of services, including the custodial services. This causes strain and increased tension among inmates and officers alike. Overtime, with all its inherent drawbacks, may be used as a temporary solution, but only for very short periods.

The statistical survey in Volume 2 of this report shows that the use of overtime and the frequency of incidents are directly related. Increasing of staff to cope with overcrowded conditions is not the complete answer, however; this will improve the correctional officer/inmate ratio, but the overcrowding remains. Moreover, facilities for correctional officers also become crowded, with a resulting impairment of the officers' ability to perform their duties. The added tensions for both inmates and staff increase the likelihood of incidents occurring between the two groups, which in turn increases the chance of violent confrontations.

The solution will not be found in building more and more jails. As it is, Canada is said to have one of the highest ratios in the world of persons in custody to total population. This comparison with other countries does not, of course, take into account the political prisoners held in prisons in some other countries. One of the answers to the problem of our growing jail population must lie in diverting people, particularly young first offenders, away from custody and towards other less damaging (to them), less costly (to us), and at least equally effective forms of punishment.

In 1977, two much-needed jails were opened in Metropolitan Toronto – the East Detention Centre in Scarborough and the West Detention Centre in Etobicoke. These two new facilities, each designed to house 200 inmates, were excellent models of what new and modern jails should be from the standpoint of architecture and facilities. They ensured, as much as jails could, the safety and reasonable human dignity of the inmate as well as a good atmosphere for work and acceptable amenities for staff. The correctional officers' facilities and working conditions are not just frills. They are necessary if staff are to carry out their duties in an efficient and proper manner. The buildings were designed by sections and wings, permitting application of the unit concept. There are adequate sports, working, and recreational facilities. Security is good, but it is not oppressive. Even those confined to the segregation cells can look out on the world and need not suffer the claustrophobic effects of the old type of dissociation cell, which as often as not worsened inmate behaviour rather than improving it.

There are no frills or gimmicks in these two new buildings. They were designed to house those who had to be in custody, either as remand inmates or on short-term sentences, usually limited to 30 days. The cost of constructing the Metropolitan Toronto West Detention Centre in Etobicoke averaged \$70,000 per bed. The per-bed cost for the Metropolitan Toronto East Detention Centre was lower because of its more vertical design.

Metropolitan Toronto South Detention Centre, to be built in Mimico with a capacity for 400 male and 100 female inmates, is projected for completion in 1982 or 1983. Unless there is greater inflation than anticipated, its cost per bed will be \$50,000. The lower figure is explained by the large capacity of the projected centre. It should be noted that almost all correctional authorities believe the optimum size for any penal institution to be 200 beds.

Until 1977, the only remand centre and short-term-sentence jail in Metropolitan Toronto was the Toronto Jail itself. Although the designated capacity for the combined old section (completed in 1865) and new section (completed in 1958) was 543, the inmate count at the time of the allegations considered by this Commission was sometimes in excess of 800, and on occasion it was around 900. At one time during our hearings, the overcrowding and understaffing reached such an alarming stage that the Commission addressed an interim communication directly to the Ministry. To the credit of the Ministry, effective steps were then taken, both to reduce the population of the jail (by transferring temporary absence program inmates and intermittent sentence inmates to the Mimico Correctional Centre) and to increase the correctional officer complement.

With the opening of the new centres, the Toronto Jail was able to reduce its capacity from 543 to 374. This permitted discontinuance of the use of certain corridors in the old section of the jail.

The Ministry made a comparison of capacity and inmate population as of September 23 for the years 1975, 1976, and 1977, for the three institutions mentioned. The result is of considerable interest in showing the Parkinsonian tendency of the courts to fill new available jail and detention facilities as soon as they become available. The figures also show a persistent excess of count over capacity at the Toronto Jail.

	Capacity			Count as of September 23			Over (Under) Capacity		
	1975	1976	1977	1975	1976	1977	1975	1976	1977
Toronto Jail	543	543	374	793	686	502	250 46%	143 26.3%	128 34.5%
West Detention Centre			200			195			(5) (2.5%)
East Detention Centre			200			194			(6) (3.0%)
TOTAL	543	543	774	793	686	891	250 46%	143 26.3%	117 15.1%

To permit the closing down of the old section of the Toronto Jail (retaining the newer section) and the accommodating of additional inmates who would otherwise have been housed at the Toronto Jail, arrangements were

made to change the single-bed cells at the two new detention centres to double-bunked cells. This will permit these two facilities to expand from an inmate capacity of 200 each to 328 at Metropolitan Toronto West Detention Centre and to 340 at Metropolitan Toronto East Detention Centre.

It is, of course, unfortunate that the "single bed-single cell" concept, with its custodial advantages to both inmate and officer, had to be abandoned in favour of two to a cell. Lack of privacy, sharing of toilet facilities, loss of necessary quiet time for thought, and increased tension for inmates and staff are only some of the resulting problems. Yet the change was considered vital to make it possible to discontinue the use of custodial accommodation in the old building of the Toronto Jail.

In October 1977, it was already contemplated by the Ministry that the use of the upper floors of the old building would be discontinued by the year-end and that the first floor of the old building would be used "primarily to accommodate administrative and program offices and support services". As for inmate accommodation, the first floor was to be used on an "emergency overflow basis only". Part of this program involved the removal of female inmates from the Toronto Jail (primarily to the Metropolitan Toronto West Detention Centre) and the use of the former female section for male inmates. The plan was a commendable one. It is unfortunate that it also had to involve the change to double bunking at the two new centres. But on a balance of convenience this was necessary. It is the hope of this Commission that, when the new Metropolitan Toronto South Detention Centre is ready for occupancy, there will be a return to single-bed accommodation in the other two centres. Metropolitan Toronto South is designed for single-cell occupancy.

On November 10, 1977, the Minister of Correctional Services, the Honourable Frank Drea, took the matter one step further by announcing that the whole of the old building of the Toronto Jail would be closed by the end of 1977 and that tenders would be called for its demolition. This will mean transferring all services at present in the old building to the new building.

The custodial capacity of the Toronto Jail is then to be set at 250 and it will probably be limited to remand inmates. Adding this to the two expanded detention centres with capacities of 340 and 328, Metropolitan Toronto will have a total capacity of 918 for remand and short-sentence inmates until Metropolitan Toronto South is completed in 1982 or 1983. On September 23, 1977, the combined counts for the Toronto Jail and the East and West Detention Centres was 891, leaving a net cushion of only 27 bunks for the next five or six years! The obvious alternatives appear to be:

- (a) Accepting more inmates than the Ministry recommends for each of the three facilities – that is, overcrowding.
- (b) Obtaining additional temporary accommodation until the South Detention Centre is opened. This might mean re-opening such institutions as Burwash for short-term sentences, or the temporary use of other buildings, such as those sections of the buildings of nearby Riverdale Hospital that are not at present being used for hospital accommodation; or adapting some other space, such as unused factory buildings, for

low-risk inmates.

- (c) Advancing the date for construction and completion of the South Detention Centre, or at least a part of it.
- (d) Speedier trials for remand inmates.
- (e) Diverting those charged with minor offences, particularly youthful first offenders, from jail and detention centres. This is dealt with in more detail below.

I wish at this point to address myself to the matter of remand inmates. If these inmates, that is, those awaiting trial, could be processed more quickly by the courts, the jail space that has to be allotted to their use could be reduced.

Taking a simple example, this becomes quite evident. If there are seven inmates on remand who would normally occupy jail space for periods of 3 days, 1 week, 2 weeks, 3 weeks, 4 weeks, 5 weeks, and 6 weeks, respectively, and by a speedier court process their cases can be disposed of within 3 weeks, then a total of 6 weeks has been saved – one week on the normal 4-week-remand inmate, 2 weeks on the 5-week inmate, and 3 weeks on the 6-week inmate.

Of course, justice must not be sacrificed for expediency. But in many cases justice is being sacrificed because of delay, and inmates are being kept unduly in our jails on remand. A very good study on the subject has been made for the Planning and Research Branch of the Ministry entitled "Prisoners Remanded in Custody". This was drawn to my attention through the courtesy of the Deputy Minister, Glenn Thompson. I had the opportunity also of discussing the draft report with Paul Stanley, the consultant, and R. E. B. Smith of the Ministry. I was pleased to see that some of their material and their recommendations coincided with earlier observations we had arrived at independently. On the accommodation aspect, their study showed that approximately 50 per cent of the Toronto Jail's inmates were remand inmates. This corresponded, generally, to the situation in other jails in Ontario.

Another study, made on a day in October 1976, showed that 384 or 57 per cent of the inmates were on remand. Of the 384, almost half had been on remand for four weeks or more, and four inmates had been on remand for more than six months. The breakdown of that information, together with our extensions of it, in columns 3 and 4, is given in the accompanying table.

A total of 999 inmate-weeks were spent on remand, beyond three weeks! There are, of course, reasons why some cases cannot be tried sooner than four weeks after a person is initially placed in custody. There are also some remand inmates who cannot be allowed out of custody prior to trial. But, even allowing for these two factors, the figure is shocking and shows a burden that the Toronto Jail was carrying at great expense to the taxpayer. The cost of maintaining an inmate at the Toronto Jail, for the fiscal year April 1, 1976, to March 31, 1977 (the period within which this last study would fall), was \$29.19 a day or \$204.33 a week. Multiplying that figure by 999, we find that the cost of maintaining these remand inmates, who were in the Toronto Jail beyond a three-week period, was in excess of

<u>Inmates</u>	<u>Weeks in Custody per Inmate</u>	<u>Weeks in Custody per Inmate beyond 3 Weeks</u>	<u>Total Number of Inmate-Weeks beyond 3 Weeks</u>
7	less than 1		
70	1		
77	2		
51	3		
41	4	1	41
29	5	2	58
26	6	3	78
14	7	4	56
12	8	5	60
6	9	6	36
8	10	7	56
10	11	8	80
3	12	9	27
3	13	10	30
2	14	11	22
3	15	12	36
3	16	13	39
3	17	14	42
2	18	15	30
1	20	17	17
1	21	18	18
1	22	19	19
4	23	20	80
2	24	21	42
1	25	22	22
2	29	26	52
2	32	29	58
<u>384</u>			<u>999</u>

\$200,000. This is a matter in which the judiciary and the community should both take a greater interest and a shared responsibility, and it is one of the reasons for the recommendation of a Toronto Jail Council. If there is a backlog of cases in our courts and an insufficient number of judges to handle it, then high priority must be given to holding trials as quickly as possible – compatible, of course, with justice – for those persons who are in custody.

The cost factor is only one aspect. There is an understandable strain on the remand inmate, caused by his continuing uncertainty about his future. This strain increases the longer he is in limbo, which does not make the duties of the correctional officer any easier.

It may be seen that the accommodation aspect of the custodial problems of Metropolitan Toronto is ongoing. This is another reason for the sug-

gested creation of a Toronto Jail Council, or even a Metropolitan Toronto Jail and Detention Centres Council. This is discussed more fully in the Recommendations of this Commission, as is also a suggestion for reducing some of the problems with reference to those inmates who are remanded from week to week. The cost of accommodation at the Toronto Jail has already been referred to. On a yearly basis it amounts to \$10,625 per inmate as against an Ontario-wide average of \$15,140. This last figure is exclusive of the capital cost of new buildings which, when amortized over a 50-year period, would increase the annual cost per inmate by 50 per cent. As long as we are in an inflationary spiral, the cost for custodial care at the Toronto Jail, as in all other penal institutions, may be expected to increase year by year.

But imprisonment involves secondary as well as primary costs. The funds expended on inmate custody in the Toronto Jail represent only a portion of the financial damage actually incurred. The loss of individual productivity during the period of incarceration, social welfare costs, and subsequently the diminished employability of individuals upon release are additional factors to be seriously considered. It has also been estimated that about 20 per cent of the families of Toronto Jail inmates require welfare support and assistance.

A further expense, outside the custodial sphere but still under the "justice umbrella", is that of policing, and today policing is an expensive proposition, as is the prosecution of criminals. Consider also the property loss and damage caused by criminal acts, and the injury and death to innocent victims, with their further monetary losses.

These considerations are aside from the obvious humanitarian ones that we all undoubtedly have in wanting to keep people, particularly the young who form the bulk of our custodial population, from spending their best and most formative years behind prison walls.

I have had occasion to discuss corrections and custody with a large number of intelligent and responsible people, and I have asked those who quickly advocated locking up inmates and throwing away the key to stop for a moment and calculate the financial cost they are shouldering as taxpayers, for the custodial care of inmates. When they did reflect upon the matter, they became concerned, and expressed interest in the matter of diversion, the treatment of inmates, their rehabilitation, and in attempts to break the revolving-door syndrome of recidivism, or at least to lengthen the time between periods of incarceration.

There are some inmates who can never be reformed. There are also some criminals who are of such a violent and dangerous nature that they must be kept out of society. But such persons are very much in the minority and most of them by the efflux of time are eventually released from custody in the hope that they will be able to conform to the law. But it is not to these exceptional cases that I now turn attention, but rather to the many who occupy jail space but should not.

The fault may lie partly with the judiciary for not using sufficient imagination in finding alternative ways of punishing offenders. This is also a reason for the recommendation that a Toronto Jail Council be formed, with

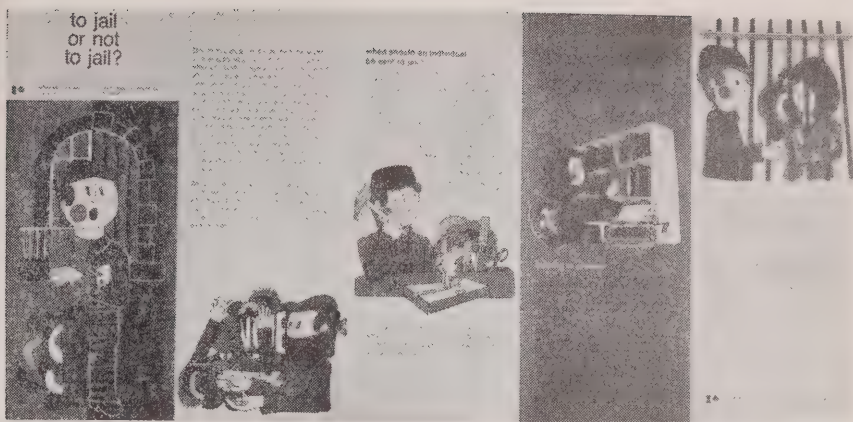
judges from the three courts that deal with criminal cases – the Supreme Court, the County Court, and the Provincial Court – taking turns of, say, four months at a time serving on the council. Judges who had served on the council would be able to share with other judges their knowledge of the problems of the high occupancy rate in our jails, the cost of such occupancy, and the effect of custody on inmates. As has been said many times, jails are breeding grounds and training schools for crime. Elsewhere in this report this theme is developed, and it is shown how the problem may be combatted by more selective recruiting and by maintaining high standards for the training of correctional staff. Another way of dealing with the problem is to send fewer young and minor offenders to jail and to find other means of deterring them, at the same time satisfying the community's desire to see the wrongdoer punished.

In my opinion no boy should go to prison unless he is incorrigible or has committed some serious offence. I think we ought to discover some form of disciplinary correction outside prison. I hope the House will not be startled at the proposal I am going to make. I see no reason why we should not introduce some kind of system of defaulters' drill – I do not mean military drill, because that would be dishonouring the profession of arms, but I think there are systems which might be extremely salutary which at the same time would be extremely disagreeable. I cannot see why it should not be possible to introduce some system that will create some branch of probation – a disciplinary branch for dealing with minor offences and mere rowdyism, which can be punished without putting the offenders into prison. [Home Secretary Winston Churchill in the House of Commons on July 20, 1910]

In recent years, there has been a growing realization that incarceration does not always serve a useful purpose or constitute an effective deterrent, and that the goals of the criminal justice system could be better served through the implementation of alternate measures. An efficient way of dealing with many young or first offenders, and even with second offenders who commit non-violent crimes, is to use the alternatives to custody – namely, suspended sentences, probation, restitution, fines, conditional and absolute discharges, and community service orders.

Some young offenders can even be diverted prior to any court appearance by the police youth bureaus. Criminological research has shown that there is "stigmatization" for some in being formally processed through the justice system and that this can have the effect of creating a "spoiled" identity and fostering a criminal career. Diversion schemes, motivated in some measure by expediency and humane concern, seek to break this sequence of events and thereby benefit both the offender and the tax-paying community.

Some early diversion programs were concerned with breaking the merry-go-round cycle of processing alcoholics through the Toronto Jail. The reforms implemented in this area resulted in such individuals being referred by



The Law Reform Commission of Canada's leaflet "To Jail or Not To Jail" reproduced here – graphics (above) and text (below) – with the Commission's permission.

One of society's most important decisions concerns those convicted of criminal acts. After a conviction, every judge is often faced with the choice of either imprisoning the offender or using an alternative type of sentence. His decision is influenced by what the community thinks prison can do. We put people in prison sometimes to punish them, sometimes to allow them to learn a trade and be rehabilitated. Some people see imprisonment as a way of deterring crime and protecting society. These reasons often conflict and the citizens find it hard to understand what is going on in the prisons. Do you?

We put many, many people in prison – might not some serve their sentence while working in the community, hopefully paying some restitution to the victim? How do we ensure that those who go to jail are the proper ones?

When should an individual be sent to jail?

Sometimes the offender's conduct is so serious and he seems such a threat to society that the judge will decide that society can't afford the risk of allowing the individual back in the community right away. If that's the case, the offender is imprisoned to be separated or isolated from the rest of us. Prison does this – but in most cases only for a limited time.

Sometimes the offender is not likely to repeat a criminal act, but because the conduct is so reprehensible and so violates society's most important values we feel it is necessary to denounce the behaviour through imprisonment. Are there any better and more constructive ways to hold people responsible?

And finally, some people just won't pay their fines or meet the conditions of an earlier sentence. So when all else fails, then imprisonment is the only remaining alternative. But what type of prisons do we foresee?

Looking at prisons

First, should they not be more like the outside world – inmates should work and assume the other duties and rights of society that we all share. They should receive decent wages but should they not also pay for the harm they have done?

Since prisons should not hold those convicted of non-violent crimes, people will then be sent to prison because we feel they haven't demonstrated they can be safely on the street. Once they have demonstrated they can be trusted, they should be allowed back into the community. Should this be a question of a set period of time or based on the way they act and accept responsibility?

And when they prove themselves responsible, then it is up to society to take them back. That is something we haven't really done up until now and we must face the difficult decision of whether or not we are prepared to do it.

Prisons are very costly places, for which we all have to pay. They will not release us from our responsibility to deal with the person in the community. Therefore, isn't the type of person who arrives back home important to us?

That, then, is your decision, our decision. Let's think about it and discuss it. Your opinion is important.

the police and the courts to detoxification centres where appropriate facilities and treatment could be provided. Changes made in recent years in the Bail Reform Act have also resulted in individuals increasingly being released on their own recognizance rather than being kept in a maximum security detention facility such as the Toronto Jail, pending trial.

The Law Reform Commission of Canada has applied itself to the matter of diversion. With its permission a pamphlet on the subject is reproduced, as is also the following excerpt from its Working Paper 7 (January 1975) on the subject of diversion.

Most criminal incidents do not end up in the courts. Decisions by the victim or a by-stander not to call the police or the exercise of discretion by police not to lay charges, but to deal with the incident in another way, or a decision by the prosecutor to withdraw the charges are as old as the law itself. In some cases, dealing with trouble in a low key is far more productive of peace and satisfaction for individuals, families and neighbourhoods than an escalation of the conflict into a full-blown criminal trial. In resolving conflicts within the family, between landlords and tenants, businessmen and customers, or management and labour, citizens and police have always been reluctant to use the full force of the criminal law. This absorption of crime by the community, police screening of cases out of the criminal justice system, settling of incidents at the pre-trial level, or using sanctions other than imprisonment are examples of what is commonly referred to as diversion.

Underlying diversion is an attitude of restraint in the use of the criminal law. This is only natural, for restraint in the use of criminal law is demanded in the name of justice. It is unjust and unreasonable to inflict upon a wrong-doer more harm than necessary. Accordingly, as an incident is investigated by police and passed along the criminal process an onus should rest upon officials to show why the case should proceed further. At different stages in the criminal justice system opportunities arise for police to screen a case from the system, the prosecution to suspend charges pending settlement at the pre-trial level or the Court to exercise discretion to withhold a conviction or to impose a sanction other than imprisonment. At these critical points within the criminal justice system, the case should not be passed automatically on to the next stage. The principle of restraint requires that an onus be placed on officials to show why the next more severe step should be taken.

Placing such an onus on officials would be a departure from existing law and practice in some respects, but it is completely in accord with reason and justice. Since all sanctions are imposed only at a cost in human and financial terms, it is reasonable that such costs should not be imposed needlessly. Instead of automatically proceeding from complaint to arrest to charge, trial, conviction and imprisonment, it makes sense to pause and justify proceeding to the next more serious and costly step. The amendments in the law of bail and provision for conditional or absolute discharge are in part a recognition of the need to proceed with restraint and to justify further proceedings. Placing an onus on officials to justify proceeding to the next step gives effect to the principle of restraint, encourages diversion in appropriate cases and makes decisions to divert visible and accountable . . . the term diversion is used to

cover programs serving a wide variety of functions:

- (1) *Community absorption*: individuals or particular interest groups dealing with trouble in their area, privately, outside the police and courts.
- (2) *Screening*: police referring an incident back to family or community, or simply dropping a case rather than laying criminal charges.
- (3) *Pre-trial diversion*: instead of proceeding with charges in the criminal court, referring a case out at the pre-trial level to be dealt with by settlement or mediation procedures.
- (4) *Alternatives to imprisonment*: increasing the use of such alternatives as absolute or conditional discharge, restitution, fines, suspended sentence, probation, community service orders, partial detention in a community based residence, or parole release programs.

The Honourable R. Roy McMurtry, Q.C., Attorney General of Ontario, has forcefully supported the principle of diversion on behalf of this province. From the above quotation it may be seen that the diversionary process involves a "change of direction". Commenting on one example of diversion used effectively, W. Paul Sonnichsen, co-ordinator of the Rideau-Carleton Restitution Program for the Ministry, has said: "I feel it has changed the lives of some offenders considerably. For others, it has had a short-term effect. About the long term, only time will tell. But for a property offence, it just makes common sense to pay restitution as opposed to incarceration. It's helping the offender face up to his most immediate debt – the debt he owes both the victim and society."

Recommendations



"Indian Arts", a painting by John T., reproduced by courtesy of the Prison Arts Foundation, Brantford.

The recommendations are the culmination of every Royal Commission's work. Indeed, we are required by our terms of reference to make such recommendations as we deem appropriate in the matters we were called on to inquire into. The recommendations should be read within the context of the full report. The first recommendation, because of its nature and the need for a complete understanding of the proposal, has been set out in some detail. We consider this recommendation, for the establishment of a Toronto Jail Council, to be of primary importance. The remaining recommendations have been set out as briefly as possible. Almost all of the recommendations are touched on in the evidence or in the Observations.

In the preparation of the report, we started with the Allegations (Volumes 3 and 4), then proceeded with the Observations (in this volume) and dealt with the various Supplements, that appear with the Briefs in Volume 2, then wrote the Introduction for this volume, and finally came to these Recommendations. Thus, the material in the four volumes does not appear in the order of its preparation, but rather in a sequence designed for ease of reference.

The main consideration in the formulation of the recommendations was feasibility of implementation, and in this regard the cost factor was borne in mind. As was mentioned in the Introduction, when we felt impelled to make recommendations during our hearings and discus-

sions, we did so. Recommendations that have already been implemented are not repeated here.

Recommendation 1:

That a Toronto Jail Council be established.

This Council is not to be confused either with the Minister's Advisory Council or with the citizens' committees that have been associated with the Niagara Detention Centre and the Ottawa-Carleton Detention Centre. The idea arose, in part, from a study of the Boards of Visitors attached to certain prisons in the United Kingdom, but the proposed council would not operate in quite the same way.

It may help to explain the proposed Council's role if we begin with a description of its suggested composition. One of the members should be a judge. In Ontario there are at present three courts of criminal jurisdiction that may sentence convicted persons to custodial terms. The three courts may even deal with the same types of cases. I refer to the Supreme Court, the County and District Courts, and the Criminal Division of the Provincial Court. It is proposed that judges from these three courts take turns serving on the Council, preferably in the role of chairman. The judges should serve on a full-time basis for periods of, say, four or six months. This would mean that each bench would lose one of its members for four months in each year, or for six months in each 18-month period.

I have spoken of the loss, but the gain would far outweigh it. Do all our judges have a sufficient grasp of what it means to be held in custody, cut off for 24 hours a day from family and friends, deprived of freedom of movement, and obliged to live behind bars? The reviews of the allegations in Volumes 3 and 4, if read with imagination, may convey some idea of the reality of imprisonment. As Oscar Wilde wrote in *The Ballad of Reading Gaol*, "Each day is like a year/A year whose days are long."

How can judges who have never spoken to a jail superintendent, a senior officer, or a line officer fully appreciate the problems of operating and manning a jail – the problems that arise in the interaction between staff and inmates? Most important, are the problems of accommodation and diversion fully appreciated, and, if so, how is it that every new

custodial centre is immediately filled as soon as it becomes known that space is available?

Through participation on the Toronto Jail Council, a number of judges would learn intimately about the inmate, the line officer, and the jail, and they would, it is assumed, brief their fellow judges about the problems of the jail, and of custody in general.

On the other side of the coin, each judge would, through his previous experience at the Bar and his more recent experience on the Bench, be able to advise the Council on matters of law, on the manner of conducting inquiries, on the weighing of evidence, and on any other matters where his expertise might be of assistance.

The other members of the Council should be as representative of the citizenry as possible, to provide a nexus between the community and the jail, interpreting one to the other.

It is envisaged that there would be a representative of at least one service organization. This, too, might be on a rotating basis between organizations, with the idea of involving more than one service group.

There should also be representatives from a women's organization, from labour, from industry, and from at least one ethnic group – particularly one that has ties with significant numbers of correctional officers or inmates. There should be representation from a youth group; the Junior Board of Trade and the Boy Scouts are young people's groups that could be represented. The John Howard Society and the Salvation Army should also have representation, and there should be a retired person on the Council.

Since the Toronto Jail (as of the end of 1977) has no female inmates, it is unlikely that the Elizabeth Fry Society would be interested in a Council set up to serve the Toronto Jail only. If the Council were to be expanded into a Metropolitan Toronto Jail and Detention Centres Council, then that society would, of course, have an interest.

There should also be representatives on the Council of the line officers, the senior officers, and the superintendent group. Inmates should be represented by someone who has had experience as an inmate and has rehabilitated himself. I can think of no more able person in this regard than Hugh Sutherland, one of the witnesses who appeared before the Commission and very objectively analysed the problems of inmates and staff, and offered pertinent suggestions.

Some elected representatives who are interested in corrections should be on the Council – not just nominally, but actively. They should be appointed from City Council or Metro Council (depending on the geographical scope of the Council) and also from the Legislature on a

non-partisan basis.

There should also be a senior representative of the media, present not as a reporter but as a knowledgeable representative of the community. Another purpose that might be served by a media representative is to ensure fair and accurate reporting of matters affecting the Toronto Jail.

The presence of a media representative would be especially important in assisting the Council to combat the public apathy that sometimes exists with reference to correctional facilities. It is of vital importance that the community take as much interest in its jails as it does in its schools and hospitals. Where public interest is lacking and the jail is hidden away and forgotten, there is a greater likelihood of episodes occurring such as those related to this Commission. The humane treatment of inmates and the working conditions of the correctional officers must occupy the social conscience of the community.

It would also be in the interests of the Council to have as a member one of the citizens serving with the Minister's Advisory Council on the Treatment of the Offender, a highly qualified group that advises on current correctional philosophy as it applies to Ministry programs.

I am unable to decide whether it would compromise the positions of the jail's chaplain and its senior social worker to serve on the Council. I am inclined to think that it would not be embarrassing for these persons to serve, but if they should find it so, then no doubt they could assist in an advisory capacity when needed.

As for the total number on the Council, up to 20 should be manageable, with those from outside the judiciary serving staggered terms of, say, three years, with one-third retiring each year. If it were decided that a more appropriate term was two years, then one-half should retire each year. The staggered term would ensure continuity of information and planning.

Members of the Council should serve *gratis*, or perhaps with a modest honorarium. Reasonable expenses should be claimable, so that there would be no personal financial loss to serving members.

Membership in the Council should not be a token matter, but should involve active participation. The Council could be divided into committee groups of three members each, to be on duty for a week at a time along with the full-time judge-chairman. The judge-chairman should be on duty throughout the week, being at the jail at least once a day, Monday to Friday. The balance of his time should be spent at an office, possibly at the Ministry or some other convenient place where

he could use an existing stenographic and telephone-answering service. It is anticipated that he would have time to review Misconduct Reports and inmate complaints and any other relevant material furnished to him by the jail or the Ministry, as well as to do research reading in the field of corrections.

The three-man committee should meet with the judge once a week, and more frequently if necessary. The Council as a whole should meet once a month.

To give it continuity and guidance, the Council should have an executive secretary, who should be on at least the middle management level of the Ministry. Such a person would be able to provide the necessary expertise whenever the Council wished to obtain information, have a matter properly investigated, recommend a change, or bring an urgent problem to the attention of the proper agency.

The Council should, of course, have direct access to the Minister and to the Deputy Minister, when necessary, but it should as a rule be sufficient for it to deal with a suitable person in the Ministry, without having to consult the Minister or his deputy directly.

Mention has been made of a possible source of stenographic and telephone-answering services. It is unlikely that a full-time stenographer-secretary would be necessary. If other commissions and committees cannot provide this service, then where there is no conflicting interest it might be provided by the Ministry or the Toronto Jail, or arranged on a part-time basis. Experience and experimentation will, no doubt, provide the answer.

As may be seen, the idea is to provide an ongoing "mini-commission" operating with as little expense as possible. The judge-chairman and executive secretary would have been paid by other primary sources. The remaining members would, as already noted, serve without fee or for a modest honorarium.

With the abolition of the Grand Jury in Ontario in 1976 and its replacement by the Public Institutions Inspection Panel, visits to the Toronto Jail by authoritative independent groups of citizens occur now only at six-month intervals. Grand Juries of the Supreme Court and of the County Court of the Judicial District of York used to sit much more frequently. In addition to considering bills of indictment, they would visit institutions in the County of York that were supported wholly or partly by public funds, among them the Toronto Jail. Many Grand Jury reports were critical of conditions at the jail.

The weakness of the Public Institutions Inspection Panel (like the

Grand Jury before it) is that it is not an ongoing body with a consistent membership. This mitigates against a proper follow-up to ensure that recommendations are implemented. Another weakness of the panel is that it lacks association with a particular institution, in this case the Toronto Jail.

The proposed association of a group of interested citizens with a specific institution (the Toronto Jail) over a significant period of time would ensure a close, continuous relationship that would link the jail to the community, and the community to the jail. Understanding is a two-way street. It is of primary importance that the Toronto Jail should no longer remain either a mystery or a curiosity to the citizens of the city. It is hoped that this report, including the review of the allegations, will dispel some of the mystique and lead to a better understanding of who the inmates are and who the correctional officers are, and of the problems of both groups, with particular emphasis on the role, function, and duties of the correctional staff.

This should not be a one-time thing, but a continuing process, because the circumstances change from time to time. To mention two significant changes that came into effect in 1977, new detention centres were opened in Metropolitan Toronto and remand inmates may now, on consent, have their cases adjourned for more than eight days without intermittent appearances. The possible effects of these changes on accommodation, on the workload of officers, and on the tension of inmates is considered elsewhere. These are just two of many reasons why the picture at the Toronto Jail should be monitored continuously. That is not to say that the purpose of the Council is to spy on or second-guess the Superintendent and his staff. They are professionally trained persons who must have the unfettered day-to-day running of the jail. But the Council should be in a position to assist them as well as to serve the inmate and the correctional officer.

How might the Council assist the jail staff? By giving them the community understanding and recognition that is so often lacking at present, and by assisting in the implementation of worthwhile programs, with the community's financial and personnel support. Examples of the latter might be the provision of sports equipment and entertainment where such is beyond the Ministry's budget, and the recruiting of volunteers to carry out various vocational and educational programs and volunteer services.

At times, the Council might help the jail by acting as its advocate before the Ministry. In England, the governor of one of the jails told us that the Home Office, Prison Service, once allocated funds to his

prison for a project that he considered to have a lower priority than another project for which he was unable to obtain funds. The matter was explained to his prison's Board of Visitors, which, after satisfying itself about the merits of the governor's proposal, took the matter up with the Home Office, to which it had a direct channel, and the money was reallocated as desired by the governor.

During the course of our hearings, and subsequently in discussions, it was indicated that there was not always sufficient staff in so far as correctional officers, medical officers, nurses, and social service workers were concerned. This is an area which the Toronto Jail Council could explore, having in mind not only the demands of the jail but also the funds available to the Ministry.

How might the Council assist the inmates? By providing the same sort of community understanding that it would give the jail staff, and by harnessing resources for after-care, employment, and aid to families of inmates and ex-inmates who need advice, information, direction, and financial assistance.

Inmate after-care is vital, to break the revolving-door syndrome of recidivism. The plight of the inmate who tries to go straight is set out in the brief of Walter McCullough, appearing in Volume 2. Our probation services are strained to the limit in personnel, time, and funds. In Sweden, volunteer services have been expanded to the point where there is a one-to-one relationship between ex-inmates and volunteers representing the community. Groups of volunteers are assigned to each probation officer, who gives them professional guidance and is thus enabled to efficiently carry a bigger case load. At least for a time following their release, many former inmates do not have the sophistication, courage, or confidence that they need to act on their own in the outside community. The helping hand of an interested person has proven to be the answer to many a problem of rehabilitation. The Council could centralize and co-ordinate such efforts and ensure a reserve of volunteers.

It is also proposed that inmates should be advised of their right to appear before the Council and to be heard with reference to any request or complaint they may wish to make. This should not be a substitute for the rights inmates already have – to appear before the Superintendent of the jail or to forward requests or complaints to the Ombudsman's office. There are times when these channels would be appropriate. But some inmates, in giving evidence, indicated that they did not make allegations against a correctional officer prior to the creation of this Commission because they considered that the Superintendent was part of

"the establishment" and that their complaints would not be independently judged. The result was that allegations were sometimes voiced and innuendos uttered by inmates against officers, who remained under a cloud for lengthy periods before being either cleared or censured. This created friction and, at times, smoldering tension.

As for the Ombudsman's office, it caters to a broad range of issues in the governmental field. When it deals with a problem of a particular institution, it treats that problem but does not become involved with the continuing life of the institution. The Council, with its known presence at the jail, its constant availability, its weekly committee meetings, and its monthly Council meetings, would provide a quick and economical forum for problems exclusively identified with the Toronto Jail. It is this personal quality of the Council, with its sustained attachment to the jail, that would give it much of its strength. If, as will be considered below, the Council should be set up in such a way as to include the Metropolitan detention centres as well as the Toronto Jail, it would still be concentrating its attention on a homogeneous group of related institutions. Councils might be set up in other municipalities if this pilot project proved successful and similar needs manifested themselves.

Another way in which the Council could be of assistance to the jail, its staff, and its inmates, as well as to the Ministry, would be in reviewing all Misconduct Reports and segregation orders. A situation such as Pirozzi's 40-day segregation confinement (see Volume 4) would have to come to the attention of the Council and appropriate steps would be taken to transfer the inmate to another institution or put him elsewhere in the jail. More important, the Council would provide an independent monitoring of the mood of the jail, to detect problems that might require attention. The Council should also have the right to hold its own hearings, preferably presided over by the judge-chairman, with power under the Public Inquiries Act to subpoena witnesses and documents.

We have made suggestions for the composition and duties of the Council. These are not put forward as a set formula, but rather as a guide to what the role and function of the proposed Council should be. The Council's ambit should include the same subjects that are set forth in items 2, 3, and 4 of our terms of reference, so that it might, in effect, continue with the Commission's assigned duties. After the cut-off date of our investigation, complaints that were within its scope continued to be addressed to the Commission. Had a Council been in existence as we were closing out our work, these matters would have been referred to it.

The recommendation made in some of the briefs that the number of

officers at the Toronto Jail should be increased suggests another way in which the Council might function. With the closing of the old section of the jail and the reduction of the inmate population to a proposed figure of 250, there has been a corresponding reduction in the correctional staff, many being transferred to the new detention centres. Jail authorities often believe that they are understaffed. Our inquiry showed that this was the case at various times. The Ministry, on the other hand, is concerned with budget allocations. There may, therefore, be a conflict between jail and Ministry in this important area. This is one of the matters that the Council could be monitoring. Taking an objective position, the Council should be able to form an opinion as to whether or not there is understaffing. If there is, then strong representation could be made to the Ministry. Such a recommendation, coming from an objective, independent source, would be seriously considered, as were the Commission's interim suggestions, made during our hearings.

Although the Council was originally thought of as serving the Toronto Jail only, with the creation of the two new Metropolitan Toronto detention centres the accommodation of persons in custody now involves three interdependent institutions, with a fourth to be added early in the 1980s. The problems of all these institutions will be much the same. Therefore, after an initial trial period at the Toronto Jail, one all-embracing Council might be set up to serve all detention and jail facilities in Metropolitan Toronto.

(Those wishing to do further research on the recommendation for a Toronto Jail Council are referred to various documents of the United Kingdom Home Office, including a report on the Boards of Visitors of Penal Institutions by a joint committee of the International Commission of Jurists, the Howard League for Penal Reform, and the National Association for the Care and Re-settlement of Offenders, under the chairmanship of the Right Honourable The Earl Jellicoe; *Notes for the Guidance of Visiting Committees and Boards of Visitors*, based on a pamphlet by the late Sir Leonard Page, former chairman of the Visiting Committee of H.M. Prison, Oxford, and revised by the Prison Department of the Home Office; the constitution of the Prison Committee of Whitley Council; and a memorandum of the Prison Department of the Home Office concerning Boards of Visitors. Another source of information is an article entitled "Membership of Boards of Visitors of Penal Establishments", by Professor Gordon Borrie, chairman of the Committee of Management of Institutional and Judicial Administration, City of Birmingham (*Criminal Law Review*, May 1976).)

Recommendation 2:

That remand inmates be dealt with in a remand courtroom adjacent to the jail.

This matter has been discussed in connection with some of the allegations as well as elsewhere. The logic of the recommendation emerged during consideration of the use of "court cells" for remand inmates, who were being taken to court and back again every week. Such inmates had to change into street clothes the night before their remand appearances; sleep in those clothes in the overcrowded court cells; rise and wash very early and line up for transfer to the court house in a police "paddy wagon"; and wait in the cells at the court house until the time came for them to appear in court. Then the reverse procedure had to be followed to get the inmates back to their cells. All of this, of course, entailed extra work for the jail staff.

We were impressed with the procedure used at the Los Angeles County Jail, which housed some 5,000 inmates and often processed 2,000 in and out in a day. The court house was linked with the jail by an underground tunnel and many of the steps in the Toronto Jail procedure were thus eliminated.

Section 465 of the Criminal Code was amended by the Criminal Law Amendment Act 1975 (which received Royal Assent on March 30, 1976) in such a way as to extend the granting of adjournments of preliminary inquiries for more than eight days to accused persons in custody, when the accused and the prosecutor both consent to the adjournment. Previously, adjournment beyond eight days was possible only for accused persons not in custody. The purpose of the preliminary inquiry, which in Ontario is held in the Provincial Court, is to ascertain whether there is a *prima facie* case for putting an accused on trial. The amendment might have reduced significantly the number of court attendances made for the sole purpose of having a case adjourned for no more than "eight clear days" (which for convenience was usually one week), but I was informed by the Toronto Jail authorities that it did not do so. Despite the inconveniences involved in repeated trips to court, few remand inmates would agree to longer adjournments. Various reasons for this have been cited, not the least of which was the inmates' desire for a break in the jail routine. The trips to court also gave an inmate opportunities to speak to his lawyer or his lawyer's representative, often in the hope that his case would be tried at an earlier date. Placing the remand court adjacent to the jail would not affect these matters.

If the old part of the Toronto Jail were to be retained for non-custodial purposes, such as providing sporting, recreational, educational, and administrative facilities, then it could also house a remand courtroom. As it now stands, the old building is linked with the new section, so that there would be ready access to the remand court, as there is in the Los Angeles County Jail.

If the old section of the building is to be demolished, consideration might be given to having a remand court in a new adjoining building, which might also be used for sporting, recreational, educational, and administrative purposes.

Other possible alternative locations for a remand court are the two separate small buildings to the south of the jail, at present being used for a training centre and a halfway house, among other purposes, and the buildings in the nearby Riverdale Hospital complex that are no longer being used for hospital purposes. The proposed remand court would probably be in session only for short periods on weekdays, and its facilities could, therefore, be put to other uses at other times.

The remand court would, of course, have to be open to the public, and proper security measures would have to be taken, but this should not pose more of a problem than is the case with any other courtroom.

Justices of the peace regularly attend at the jail for bail purposes. They have power to remand cases and do so in most, if not all, of the Provincial Courts in Metropolitan Toronto and the surrounding area. Where there is some cogent reason for a remand to be spoken to before a Provincial Court judge, this could be done by having such judges serve on a rotating basis.

The saving in man-hours of work and the relief of tension among inmates would be considerable. The likelihood of confrontations between staff and inmates would be greatly reduced, as would the opportunities for inmates to bring drugs or other contraband into the jail.

Recommendation 3:

That suitable year-round accommodation be provided for sporting activities.

During our hearings, I was disappointed to learn of the lack of any program of organized sports in the jail. Raising the matter on one occasion, I was advised that there had been some volleyballs for use in the exercise

yard, but that when they went over the wall they were not replaced. On my visits to the jail in 1974 and 1975, the only form of indoor exercise I noticed was some purposeful walking back and forth in a psychiatric area by two inmates. As for staff, they had the use of one pool table.

This was in striking contrast to the gymnasium and fully equipped exercise room at the Ontario Correctional Centre and similar facilities at other new institutions, including the two new Metropolitan Toronto detention centres. I do not consider such facilities to be a luxury, but rather a necessity where virile young men are kept in custody. In some rather old buildings in other jurisdictions, suitable areas have been converted into exercise rooms, and in one institution basement space has been made into a large sports area.

I had indicated my concern about these matters and I was therefore pleased, on my last visit to the jail, in October 1977, to learn that some exercise bicycles and punching bags had been brought into the corridors.

During the summer of 1976 a sports and recreational program was conducted at the jail by a summer student. Unfortunately, when the student went back to school no one was designated to continue his work and the excellent program he had initiated disintegrated. The need for programmed sports activities was set out in the student's report on his work: "The basic philosophy underlying the recreation program was inspired by the marked lack of constructive activity on the part of the inmates in the corridors and exercise yards within the building. This inactivity was highly conducive to the maintenance and increase of anxieties, tensions, and hostilities which consequently presented a threat to the order and security of the institution, and any rehabilitary conditions therein."

The outdoor exercise yards of the Toronto Jail cannot be used in the winter time, or in bad weather at other times of the year. Even in good weather, our hearings revealed, attendance in the exercise area was on a voluntary basis.

The food at the jail was both good and ample and compared favourably with that of the average Canadian household, but this had an adverse side effect on some inmates, because the carbohydrates and fats that were consumed were not being burned off by physical activity.

It is, therefore, necessary not only to provide sports facilities as a safety valve for tensions and anxieties and to redirect the excess energies of young inmates into constructive activity, but also to encourage individual programs of calisthenics and other physical exercise. The end result will be fewer officer-inmate confrontations and healthier inmates who will make fewer demands on the medical services.

The need for physical, sporting, and recreational services is as great among remand inmates and inmates serving short sentences as it is among inmates serving time in fully programmed institutions. And it should be recalled that remand inmates and short-sentenced inmates often remain in the Toronto Jail much longer than intended.

We had hoped that, when the old section of the Toronto Jail was no longer used for living accommodation, it would be adapted for sporting and other recreational purposes. (In many penal institutions there is a stage at one end of the gymnasium, permitting its use also as a theatre or lecture and assembly hall.) Whether this is economically feasible is a matter for the Ministry to consider. If it is not, then an annex should be built (possibly of the prefabricated type) adjoining the new section of the jail, to serve the above purposes, provide space for administrative and educational activities, and house the remand court described in Recommendation 2.

Until such an annex has been completed, the old section of the jail might be used for the purposes described. Certainly, one can only applaud the abandonment of the old building as a place to house inmates. Had this not already been done, it would have been one of the Commission's major recommendations.

Recommendation 4:

That an annex be built or the old section of the jail adapted for non-custodial services.

This matter has been partially dealt with in Recommendations 2 and 3. The Commission is in complete agreement with the Ministry's decision to stop using the old section of the jail for inmate accommodation. With the new section of the Toronto Jail providing more modern cellular accommodation, for an estimated 250 inmates, attention should be given as early as possible to supplementing that accommodation with a building to provide more adequate sporting, recreational, and educational facilities as well as proper facilities for such staff amenities as a lounge, exercise room, and separate eating quarters for line officers, senior staff, and administrative personnel. Such a building should also house the proposed remand court (open to the public), and it should be used, as necessary, to accommodate administrative and volunteer services. The

remand courtroom would, as already noted, be used only during certain hours on weekdays and it could be used at all other times for educational, training, and recreational purposes.

Whether the old section of the jail could be adapted for the purposes described would have to be decided by the Ministry. At the time of writing, a debate is in progress in the community over whether the old section of the jail should be demolished, with all its grim symbolism, or retained for historical and museum purposes. We do not intend to enter this debate. As long as the old jail building is not used again, in anything like its present state, for the housing of inmates, our interest is satisfied. There may be no economical way of converting the old building, or it may prove economically feasible to use the outer shell and remodel the inside for the purposes mentioned in this recommendation. But whether the old building is adapted, or demolished and replaced by a new annex to take care of the needs discussed, is secondary to the fulfilment of those needs themselves.

Recommendation 5:

That 24-hour medical coverage be provided.

Several of the allegations reviewed in Volumes 3 and 4 illustrate the need for such coverage. The problems of men in custody, with their tensions and worries, the self-destructive tendencies of some and the psychiatric problems of others – often aggravated by poor health, bad habits, and the influence of drugs – tend to intensify the need for general medical and psychiatric services far beyond what would be expected for the number of inmates.

There was a reluctance on the part of the nurses to call in the medical staff after their normal working hours. Undoubtedly, medical staff performed to capacity during their regular working period and were entitled to relief when the work day was finished.

It is recommended that interns, serving on a rotating basis on loan from the various Metropolitan Toronto Hospitals, or at least from the large downtown hospitals, provide medical care at the Toronto Jail when the staff doctor is off duty.

There is a move on the part of some penal institutions to contract with groups of doctors for jail medical services. If the Toronto Jail

shifts to this system from that of staff doctors, or combines the two, steps should be taken to ensure that full round-the-clock attendances can be made immediately upon call.

Having a doctor available around the clock would permit intramuscular tranquilizing injections where necessary. It would also permit prompt attention to sudden illnesses and psychiatric emergencies.

Recommendation 6:

That the status and pay of the correctional officer be upgraded.

This is important, not only for staff but also for staff-inmate relations. The self-esteem of an officer who has a good measure of professional recognition is bound to be reflected in the officer's work with inmates. An analogy is the doctor who cares for people rather than just treating patients.

How can the status of the correctional officer be upgraded? A few of the possible ways are:

(a) More rigid standards of selection. This does not necessarily mean just formal education. At present, Grade XII is the required standard. There are some mature and able individuals who have not attained that level of formal education and yet, as a result of self-improvement, are more suitable for custodial work than some persons with university degrees. Their potential may be more important than their entry qualifications. Some formal education is necessary for good language communication with inmates and fellow officers, and for the writing of proper reports and the passing of required training courses. Each candidate should be judged on his merits.

(b) Training certificates should be given for all courses completed.

(c) Ongoing training after the basic and qualifying courses should stress Ministry directives and policies.

(d) Outside courses in the related fields of social work and criminology should be encouraged by subsidizing fees.

(e) There should be a public relations program to acquaint the community with the positive aspects of correctional work.

(f) There should be an opportunity for lateral transfers to related fields, such as probation work.

(g) Promotions should be based on a point system, with merit and

ability counting for more than length of service.

(h) Finally, the pay structure should be reviewed so that the C.O. 4, who does not get paid for overtime, may earn more than any C.O. 2 who is so paid. During our discussions with correctional staff we encountered some line officers who did not seek promotion because it would have meant less pay. Overtime at the Toronto Jail has been better managed and controlled recently than it was at the time of some of the allegations and in the early days of our inquiry.

(i) Unfortunately, there are many who equate pay with success and status. For this reason and, more important, to attract suitable and competent people into custodial work, the pay of the correctional officer should be made competitive with that of others performing similar services. I have no higher regard for any group in our community than for the police. At one time people looked down on police work. Since selection standards were raised, modern training instituted, and wage scales made better than average, the police officer has attained pride and professionalism and is now in one of the most respected vocations in the community.

A review of pay schedules of police and correctional officers has shown that at one time the latter received higher wages. In recent years, the trend has been the other way. Not only that, but the gap has been widening, whereas it should be narrowed by increasing the pay of correctional staff. It is realized that, in times of restraint and high unemployment, this may not immediately be feasible. But over a period of, say, three to five years, there should be annual increments for correctional staff at the Toronto Jail to reduce the differential between a C.O. 2 and a first-class Ontario Provincial Police officer to \$1,000 a year in favour of the O.P.P. officer. A comparative pay-scale table appears in the P. D. Van Horne brief in Volume 2.

One of the problems with reference to pay is that correctional officers (Grades 1, 2, and 3) are tied into the pay scale of civil servants employed by the Ontario Government. It is suggested that their union should be a separate division of the Civil Service Association of Ontario, if that is what is necessary to set up a different pay scale for them. All persons consider their own work important and there may be some opposition to this proposal from other civil servants. However, I am of the opinion that the duties of a correctional officer at the Toronto Jail are more akin to those of a police officer than to those of an office worker. The correctional officer operates within the justice umbrella. His work is important both for security and for the rehabilitation of

inmates and, therefore, for the prevention of crime. Also, his work involves physical risk. Indeed, one of the exhibits filed with the Commission contained a list of injuries sustained by members of the Toronto Jail's correctional staff.

The work of the correctional officer varies with the type of institution to which he is attached. Without belittling the duties of other correctional officers, I consider the duties of the staff at the Toronto Jail to be among the most demanding, partly because the inmates are mainly remand and short-sentence cases. There is little of the satisfaction an officer may experience working with inmates with longer sentences, with whom he can do more rehabilitation work. Taking into account the type of duties involved, the greater risk of personal injury from "unknown inmates", the smaller chance of job satisfaction, and the higher cost of living in the Metropolitan Toronto area, it may well be that the Toronto Jail correctional officer should receive an "institution supplement" to his pay.

Correctional officers with the rank of C.O. 4 and above are considered as management and are not members of the union. Whatever has been said about the line officer should apply equally to those performing management and administration duties.

In the United Kingdom, the prison service is regarded as a career, and housing accommodation is provided. There are certain advantages and disadvantages to this in connection with transfers and retirement. It would not work in Ontario. However, the closer our correctional services come to a professional level, the better it will be for both the inmate and the correctional officer. Certainly, pride of work in the correctional officer will mean more consideration for the inmate, better relations between the correctional officer and the inmate, and fewer incidents of the kind set out in Volumes 3 and 4.

Finally, concerning pay, better wages will help to attract high-calibre recruits.

Outside training courses should be encouraged as part of staff upgrading programs. Help with payment of fees should be afforded to the correctional officer. Whether it is on a full or partial basis might depend on such factors as the amount of the tuition fee, the nature of the course, and the value of the training. During our hearings, it was indicated that a number of correctional officers interested themselves in outside courses relating to the correctional field. In addition to financial encouragement, credits obtained on courses should also be considered with reference to promotion.

Recommendation 7:

That closed-circuit television be used to monitor sensitive areas.

It is recommended that closed-circuit television be brought into use at the Toronto Jail, with monitors in the offices of the Superintendent, the deputy superintendents, and the shift supervisors and cameras in the sensitive admitting and segregation areas and in the court cells. It was in these areas that most of the problems arose. The effect of cameras would be to lessen the chance of physical action by inmates or correctional officers, to monitor conduct in the sensitive areas of the jail, and to alert staff to any incipient trouble. The very presence of the cameras should have a deterrent and settling effect upon potential combatants.

Recommendation 8:

That remand inmates be brought to trial with greater dispatch.

This is a situation over which the Toronto Jail has little control. The matter has been discussed in the Observations under the heading "Inmate Accommodation, Costs, and Diversion".

When remand inmates are not brought to trial within a reasonable time, the jail should inform the proposed Toronto Jail Council which, in turn, should notify the senior judge (or judges) of the relevant court (or courts). In the absence of such a council to act on behalf of the jail in this regard, the jail should communicate directly with the appropriate judge or court.

As for what would constitute a reasonable time, this would depend on many factors – the nature of the charge, whether other charges are pending, whether the accused is already serving time for other offences, the availability of witnesses, and whether there has been undue delay by counsel. This proposed review should be quite apart from the jailer's duty, under section 459(1) of the Criminal Code, after the expiry of 90 days in the case of an indictable offence, or 30 days in the case of a summary offence, to apply to a judge having jurisdiction to fix a date for a hearing to determine whether or not the inmate should be released from custody.

Recommendation 9:

That no inmate be detained unduly at the Toronto Jail, that all records be reviewed in this regard weekly, or at least semi-monthly, and that transfers to other facilities be expedited.

During our hearings, there was evidence that many inmates were kept at the Toronto Jail for long periods before being tried or transferred elsewhere. To give three examples: at the time he gave evidence, John Meagher had been an inmate for almost a year awaiting trial; Michael Watson, aged 16, had been in the jail for six months; and Christopher Marshall had been in the jail for five and one-half months.

We also encountered a young man at the Adult Training Centre in Brampton who advised us that, after being sentenced and recommended for transfer to A.T.C., he remained at the Toronto Jail for some two and one-half months in an idle condition, waiting for the court's direction to be implemented.

There was evidence that inmates sentenced on serious charges and awaiting appeal were sometimes kept for considerable periods at the Toronto Jail pending appeal, instead of being transferred to the appropriate institution (provincial or federal) to await the outcome. Such situations may be unusual, but the fact that they happen at all indicates a need for a greater effort to transfer inmates promptly.

Recommendation 10:

That the Toronto Jail not be used as a discipline centre for the behavioural problems of other institutions.

Evidence was heard that, on more than one occasion, inmates were transferred from other institutions to the Toronto Jail solely for reasons of discipline. In some cases, the transfers were from a maximum security facility such as Millbrook.

At other times, the Toronto Jail was used as a staging area, or stop-over point, for problem inmates being transported between two other institutions.

On such occasions, there was extra pressure on the Toronto Jail staff,

adding to its duties. Considering this, and the fact that the inmates involved often resented being transferred, it is not surprising that confrontations sometimes occurred. An example of this was the Blue Goose episode, described in the Allegations.

Recommendation 11:

That the position of Superintendent at the Toronto Jail be held for no more than three years by the same person.

The Superintendent at the Toronto Jail occupies one of the most demanding posts in the Ontario correctional service. It is unfair, and puts an unreasonable strain on his physical and mental health, to have a person continue in this capacity for more than three years. After that time, with the experience gained, he could serve the Ministry in some other type of administrative position or be assigned to superintend another custodial institution. The purpose of this would be to promote a cross-pollenization of ideas and a standardization of Ministry policies.

This procedure would also give other personnel better opportunities for advancement. Few things are more stultifying for able senior persons than to feel that the road ahead is blocked. Unless there are reasonable chances of advancement, good officers will tend to stagnate or leave the Ministry. Opening just one position would make a series of promotions and lateral transfers possible, thus sustaining the enthusiasm and interest of senior staff. It would also permit younger men coming into the jail to contribute new ideas and stimulate older staff members who may have become set in their ways.

It is said that a new broom sweeps clean. Too long a period in the same situation creates an inertia which can lead one to accept conditions a newer man would not tolerate, and to fail to recognize the need for certain changes which a replacement would spot immediately.

Further, if the same man remains at the top for too long, with little or no change in his senior personnel, the result is a complacency that is likely to oppose change, and may even resist the implementation of new Ministry policies and training concepts. A cosy establishment tends to be perpetuated, and existing methods, whether good or bad, continue to be used, because "That's the way we do it here." Examples of this, and of the complacency of senior staff about inmates' claims of mistreatment, may be seen in the review of the allegations in Volumes 3 and 4.

Having spoken to former Superintendents Whitehead and Taylor, heard their evidence, and received their briefs, I am satisfied that both men were sincere and dedicated. Mr. Whitehead held the position of Superintendent from January 1965 to July 1974 and Mr. Taylor from July 1974 to May 1977. With the change of command, new methods and procedures were adopted, as was also the case when Ian Starkie, another able and concerned Superintendent, took office in 1977.

Recommendation 12:

That for security purposes and to reduce officer injury, plastic “flex-cufs” be carried by each correctional officer and plexiglass shields be kept readily available. Also, that plastic cups and drinking glasses be replaced by styrofoam cups.

Photographs of the plastic “flex-cufs” and the plexiglass shield appear in the Observations. The plastic “flex-cuf” is an inexpensive substitute for metal handcuffs. The staff should, of course, be trained in the proper use of these devices.

Consideration should also be given to replacing all plastic cups and drinking glasses with styrofoam cups. Evidence at the hearings revealed that at times plastic cups were purposely broken in order to make a weapon that could be used against correctional officers or other inmates.

Recommendation 13:

That all suspected assaults by inmates upon fellow inmates or upon members of staff, as well as all suspected assaults by members of staff on inmates, be automatically reported in writing to the Superintendent as early as possible, and that copies of that report and of the Superintendent’s investigation report be submitted to the proposed Toronto Jail Council and the area director.

There were instances of medical and nursing staff neglecting to notify the Superintendent about possible assaults. This neglect was a result either of a disbelief in the allegation or of an unwillingness to become involved.

There were occasions when the chaplain indicated that it was his practice to speak to the Superintendent about any suspected assault. There were also times when the social workers deliberated about whether to make a report when an assault was suspected.

It would be preferable, and it would relieve these persons as well as other staff members of the responsibility for deciding, if the reporting of such information were made automatic. A written report would, of course, constitute a permanent record.

Recommendation 14:

That in all cases when an inmate is taken to segregation a Misconduct Report or other report be submitted to the Superintendent.

During our hearings, instances came to light of inmates being kept in segregation for periods varying from less than an hour to overnight and then released without any misconduct charge being laid, or Misconduct Report made out. The reasons given by staff indicate that this was considered to be a lesser punishment than a charge. At times, it was done to let an inmate "cool off".

This procedure, which does not involve completing any written report, means that the matter does not come to the attention of the Superintendent for his investigation and adjudication. In most cases, the officer (almost invariably a senior officer) acted in what he considered to be the best interests of the inmate, or at least the best interests of the inmate population. Nevertheless, the procedure has the inherent dangers of arbitrary punishment.

A record should be kept of every inmate who enters a segregation cell, showing when and why he entered, and on whose authority; the officers in the escort, including the officer in charge; the time of the initial medical examination and the findings of the medical examiner; the times of all visits, indicating by whom they were made and what was observed; the time of discharge and into whose custody; and the time of the medical examination on discharge and the findings of the medical examiner at that time.

Recommendation 5 refers to 24-hour medical coverage. Until there is such coverage, and if no doctor is available, a nurse should examine the inmate and make out a report. This should be supplemented by a doctor's examination and report at the earliest possible time.

There were instances of inmates requesting segregation to escape from the noise of the corridors. Voluntary segregation should follow the procedure mentioned above, and a suitable report (not, of course, a Misconduct Report) should be submitted to the Superintendent. The Superintendent should satisfy himself about the voluntary nature of the segregation and if necessary investigate the underlying cause.

Protective custody, if it is in a segregation area, should follow similar procedures, again with the Superintendent being made aware of all the circumstances.

When inmates are in segregation for purposes other than punishment, they should have all normal privileges including exercise.

By reviewing all reports concerning segregation and protective custody, and not just Misconduct Reports, the Superintendent and the proposed Toronto Jail Council would obtain a reading of the mood of the jail.

If an inmate is admitted to segregation, either at his own request or for protective custody, an acknowledgement of this should be signed by the inmate.

Recommendation 15:

That the officer on duty in the segregation area attest all segregation entries and be responsible for notifying the Superintendent or the senior officer on duty if the procedures set out in Recommendation 14 are not followed.

This is by way of a safeguard, to ensure the carrying out of Recommendation 14 and to eliminate any contravention or abuse that might otherwise occur.

Recommendation 16:

That, except in extreme cases, every person taken to segregation be escorted by two or more line officers under the command of and in the presence of a senior officer.

Normally the number of line officers in the escort party need not exceed two. Our hearings revealed situations in which it was necessary to have an officer holding each leg and arm in order to control a struggling inmate. As far as possible, the senior officer should have no physical contact with an inmate being taken to segregation.

Recommendation 17:

That inmates confined to segregation not be subjected to physical deprivation.

Allegations were made during our hearings that inmates were sometimes placed in segregation without any clothing. Usually this occurred when they refused to change out of their jail clothing into the “baby doll” segregation garment. It was necessary, to prevent self-destruction, to relieve them of their jail clothing. Whenever an inmate refuses to put on the segregation garment, this garment should be put into the segregation cell at the same time that the inmate is put there.

There were also complaints that inmates suffered from the cold while in segregation. Non-tearable blankets and mattresses should be provided to all inmates while in segregation. In one case there was a suggestion that the jail had run out of “baby dolls”. This should not be allowed to occur and it should be the duty of the officer in the segregation area to ensure an adequate supply.

In order to make segregation as humane as possible, it is necessary that the segregation cells be clean, that they have adequate light, and that the temperature be comfortable. It is also recommended that an emergency signal system be installed that can be activated by an inmate in segregation.

Recommendation 18:

That either the officer ordering an inmate into segregation for misconduct or the senior officer in charge of the escort (who may or may not be the same person) should complete Part I of the Misconduct

Report but should not preside as the inquiring officer with reference to any other aspect of the misconduct inquiry.

Part I of the Misconduct Report may be completed by a line officer or a senior officer, depending on the circumstances. Wherever possible, the officer (line officer or senior officer) who has the greatest knowledge of the offence should complete Part I. There were instances of the inquiring officer having witnessed the misconduct or having personal knowledge of it. On one occasion, further misconduct during the inquiry was included with the original charges, instead of being made the subject of a separate charge.

Recommendation 19:

That officers signing as witnesses to a misconduct should indicate what part of the misconduct they witnessed, if they did not witness all of the misconduct set out in Part I of the report.

Our inquiry revealed some loose procedures with reference to Misconduct Reports. Some witnesses questioned during our hearings indicated that they had attested as witnesses whereas they had only partial knowledge of the events in question.

Recommendation 20:

That the Superintendent or his deputy or assistant deputy, when dealing with more than one charge in a Misconduct Report, clearly indicate his finding and punishment for each charge.

Recommendation 21:

That the misconduct hearing, when conducted by the Superintendent or

his deputy or assistant, continue to be informal, but that any acknowledgement of guilt by an inmate be signed by the inmate, clearly indicating his understanding of his voluntary assumption of guilt. Similarly, that an inmate's waiver of his right to call witnesses on his own behalf be signed by him, and that when an inmate wishes to call witnesses on his own behalf the names of such witnesses be listed in the report and that the inmate sign that these are all the witnesses he wishes to have called. Further, that when witnesses give evidence on behalf of an inmate a brief summary of their evidence be attached to the Misconduct Report, and, when the evidence of any officer differs from that which he had indicated as a witness, in Part I of the report, a brief summary thereof be attached to the report.

These provisions will permit the proposed Toronto Jail Council to make a more meaningful review of Misconduct Reports. The Council could, if it considered it necessary, conduct a new hearing, which might be similarly informal, or conducted pursuant to The Public Inquiries Act with powers under Part II of the Act.

If by chance the Superintendent, his assistant or deputy, are not available, then rather than delay a misconduct hearing for one, two, or three days as has on occasion happened when a misconduct occurred on a Friday and the hearing was not held until the following Monday, it is suggested that the senior officer present in the jail hold the informal misconduct hearing as early as possible and make his report to the Superintendent. The Superintendent could then, as soon as he was available, confirm or quash a finding ordering an inmate into segregation. When the senior officer in the jail does not think an inmate should be kept in segregation, he could adjourn the hearing for the Superintendent to complete, releasing the inmate to another corridor in the meantime. In this way inmates will not be kept unduly in segregation waiting for a hearing. This is particularly unfair when an inmate is subsequently acquitted. The case of inmate Jinks is one in point.

Further to the inmate's participation at a misconduct hearing, if through illiteracy an inmate cannot read, another inmate should be called into the hearing to read the Misconduct Report to him and, if necessary, explain it to him and attest to his mark. There can then be no suggestion at a later date that an inmate did not understand the proceedings.

Where the inmate does not have a sufficient command of the English language, an interpreter should attend for similar purposes.

Recommendation 22:

That no unauthorized officer or other person be permitted in the segregation area.

Two instances came to light during our hearings of correctional officers allegedly entering segregation cells and assaulting inmates. If this recommendation is adopted, it should be unequivocally brought to the attention of all staff and severe disciplinary action should result from any breach. The adoption of Recommendation 7, for the use of TV cameras to monitor the segregation area, would militate against any such misconduct by staff. TV monitoring in the segregation area should also reduce the incidence of allegations of assaults by officers on inmates while the inmates are changing into segregation garments.

Recommendation 23:

That all segregation records and memos be kept until the area director or the proposed Toronto Jail Council authorizes their disposal.

Recommendation 24:

That wherever possible an inmate, upon release from segregation, be sent to a corridor other than the one from which he came when he went to segregation.

This might be a deterrent to misconduct on the part of an inmate. As has been mentioned elsewhere, some inmates consider segregation as a badge of honour, and it would play into their hands to return them to the same corridor. Also, if the inmate is released after a short period in segregation, the authority of the line officer who preferred the charge may be brought into question in the corridor where the incident occurred.

Recommendation 25:

That all interviews with the Ministry's investigators be tape-recorded and that Part II of the Public Inquiries Act be extended to Ministry inspectors to permit them to subpoena witnesses and documents.

Recommendation 26:

That trained volunteers (or social service workers) be used to assist staff in the admitting area of the jail.

Admitting areas of penal institutions are sensitive places where inmate-officer confrontations may occur. From the point of view of the inmate, when the door clangs shut behind him the realization of loss of freedom is shockingly brought home. This experience is particularly traumatic to the first offender and the young. The inmate's reaction may take various forms – fear, depression, bravado, or over-aggression.

In a Canadian Council on Social Development publication (Ottawa 1975), Novia Carter observed that study had shown that a surprisingly large number of Canadians are involved in some form of volunteer activity. These people give freely of themselves out of concern, and from a belief that we are our brother's keeper, and they have a sense of responsibility for others in the community. The Ministry of Correctional Services encourages this participation, as its Volunteers and Corrections Conference in 1976 demonstrated.

It is necessary, however, to harness this involvement of citizens and make sure that it is used in the best possible manner. A number of volunteers who attended the 1976 conference, and with whom I spoke, suggested that if they could get to know the inmate early in his incarceration they could assist him in a more meaningful way. The admitting area provides an opportunity for this. Here, volunteers could help staff with the necessary but time-consuming paper work and at the same time learn the inmate's history and family problems. In this way they could, while the inmate is still in the jail, contact his family, give it social and economic assistance, where necessary, and try to ensure that he will be employed upon his release.

Concern was expressed by some of the officers attending the 1976

conference that the volunteers would interfere with the work of the officers. To gain the confidence of staff, the volunteer should undergo training and orientation. He should learn something about the officer's role and his concerns and problems.

Volunteers should co-operate fully with the jail staff and avoid any situation in which they might be at loggerheads with the staff. Indeed, they should place themselves under the supervision and guidance of the staff. They should be sympathetic to the inmates but should not become too involved with them. They should not "sob sister" or interfere in any conflict that might arise between inmate and officer.

One way in which the volunteer could assist is in answering the inmates' questions about their sentences, statutory remission, legal aid, parole, and probation. Women volunteers should, of course, have space in the admitting section away from dressing and showering areas. Where this cannot be arranged, male volunteers should be used. This restriction would be unfortunate because it would mean forfeiting the potential ameliorating influence of female volunteers on frightened or hostile inmates.

The volunteer who has established initial contact with an inmate may then visit him from time to time while he is in custody, or at least be available to discuss his concerns with him, and to answer questions about such matters as the length of his incarceration. This would partially relieve the overworked line officer of this sometimes onerous problem. Also, delays in providing information requested by inmates often cause resentment against officers, sometimes leading to confrontation.

The effect on inmates of their initial contact with jail is recognized in England, where, in some institutions, officers working in the admitting areas wear white lab coats instead of uniforms. Interestingly enough, this was once done at the Toronto Jail by officers engaged in body searches of incoming inmates. The coats were worn for hygienic reasons, and not out of concern for the inmates' tension.

Recommendation 27:

That all allegations of injury prior to admission to the Toronto Jail be fully investigated.

This recommendation arises from allegations made by inmates that they had been assaulted by police prior to entry into the Toronto Jail. There was also the suggestion that some inmates had been assaulted in one institution before being taken to another. Where such an allegation is made, a careful medical examination should be made of the inmate with a notation as to all signs of injury. The agency that had handled him previously should immediately be notified. These suggestions are made with a view to protecting the Toronto Jail staff from blame in any allegations that are made initially against others but may later be made against it.

Recommendation 28:

That any transfers of inmates to the Toronto Jail, particularly from other institutions, be limited to a small number at any one time or at least that the numbers in the admitting area be restricted to a few at a time.

The purpose of this recommendation is to prevent a recurrence of such incidents as the Blue Goose episode, reported in the Allegations.

Recommendation 29:

That medical examinations by doctors be confidential and that they not be made in the presence of a correctional officer, unless there is a definite threat to the physical safety of the doctor.

In evidence during the hearings, some inmates alleged that they did not complain of assault because correctional officers were present at the examination. Whether or not the complaint was valid is not the point.

When there is concern for the safety of the doctor it should be ascertained whether there is any history of assaults. If there is not, there is no reason why correctional officers should be present. If there is, it might be advisable to have correctional officers present, as well as a legal or medical representative of the inmate. In some cases, where there is no

serious threat to the safety of the doctor, the examination might be conducted in a room where the correctional staff would have visual surveillance but would not be able to hear the conversation.

Recommendation 30:

That psychiatric facilities at the Toronto Jail be reviewed with a view to establishing a psychiatric centre.

The proposed centre, which could deal with psychiatric cases and treatment involving non-criminal as well as criminal cases, might be set up in one of the buildings in the Riverdale Hospital complex that is no longer used by the hospital. Security is, of course, important, and certain inmates may have to be kept within the confines of the Toronto Jail. This topic is also discussed in the Observations in connection with medical services. The centre could also serve as an assessment centre for psychiatric examinations ordered by the court.

Recommendation 31:

That classification procedures for inmates be reviewed and improved.

The classification of inmates and their assignment to proper accommodation are important for their welfare and safety. If inmates who should be in separate corridors are put together, tension and even open conflict will be the result, along with additional work for the correctional staff.

Criteria used at the Toronto Jail for classification include (a) the nature of the offence charged, (b) the health of the inmate, (c) the age of the inmate, (d) the security risk of the inmate, and (e) whether the inmate has known sexual peculiarities.

Inmates with serious charges against them and those who might pose escape threats were housed in the newer section of the jail, where the security arrangements could be called "maximum".

Inmates with health problems, physical or psychiatric, were usually

placed in the hospital ward or the psychiatric section.

Youthful inmates, particularly first offenders with relatively minor charges, were housed in the old section of the jail – the so-called “youth corridors”, where security was not as tight as in the newer section of the jail. Living conditions were generally less favourable in the old section.

The need for protection of sexual offenders is self-evident. The speed of the jail grapevine and the “totem pole” inmate code make these persons targets for physical assaults by other inmates. The moving picture *Small Eyes*, based on the book of the same name, graphically portrays the physical danger such persons face. As far as possible, sexual offenders and informers were kept in segregation cells for their own protection.

Transvestites are also housed separately from other sexual deviates, for although they are not in the same physical danger they could be targets of homosexual attacks or of verbal abuse that would be disruptive to the jail's discipline.

It was brought to our attention in the incidents involving C.O. 1 Glenn Bennett that homosexuals and heterosexuals charged with sexual offences were housed in the same corridor.

The placing of newly arrived inmates was at times dependent upon the availability of space. What tends to be lost sight of is the fact that, even if there is no overcrowding, there may not be room to carry out the optimum separation of inmates. If all the cells in the proposed newer section of the jail (designated to accommodate 250 inmates) are filled, there cannot be much room for manoeuvring. For example, corridor 3A north has 18 cells and is back-to-back in the same range with corridor 3A south. If an attempt were made to use 3A north exclusively for sexual deviates, it might be that only half of the 18 cells would be needed for that purpose. If other inmates were brought into the corridor to fill the remaining nine cells, this would require greater vigilance on the part of the correctional officers. Also, the 18 inmates in Corridor 3A south would know what type of inmates were in 3A north, for they would have verbal communication with them. Part of the advantage of separate accommodation would therefore be lost.

The penal institution as a training school for crime has been commented upon elsewhere. Youthful first offenders should be kept out of jail whenever some other form of punishment would suffice. But, when they have to be placed in custody, all possible steps should be taken to keep them separate from the remainder of the jail population.

One of the problems facing the Toronto Jail, with its large transient

Reproduced here are the three pages of the "Inmate Classification Worksheet" that was developed for use in the State of New York (see Recommendation 31).

INMATE CLASSIFICATION WORKSHEET

Last, First and Middle Name (Print)	Identification No.	Admission Date
Address	Admission Type <input type="checkbox"/> 1 - Direct <input type="checkbox"/> 4 - Supreme Ct. <input type="checkbox"/> 2 - State Prison <input type="checkbox"/> 5 - Criminal Ct. <input type="checkbox"/> 3 - Dept. Instit. <input type="checkbox"/> 6 - Family Ct.	

PART 1 - CRIMINAL RECORD

Current Offense(s)	Arrested at scene <input type="checkbox"/> YES <input type="checkbox"/> NO	Last known offense:	<input type="checkbox"/> Arrest <input type="checkbox"/> Convicted	Date
Relationship of victim to Inmate				
<input type="checkbox"/> Spouse (including common law) <input type="checkbox"/> Ex-Spouse <input type="checkbox"/> Friend <input type="checkbox"/> Employer or Employee <input type="checkbox"/> Child <input type="checkbox"/> Co-habiting <input type="checkbox"/> Acquaintance <input type="checkbox"/> Stranger <input type="checkbox"/> Other Family <input type="checkbox"/> Girl or Boy Friend <input type="checkbox"/> Neighbor <input type="checkbox"/> Other (Specify)				

A. Current Offense (check appropriate column)

CLASSIFICATION FACTORS

	0 TRUE	1 PARTLY TRUE	2 LARGELY NOT TRUE	3 NOT TRUE
1. Crime was not induced by desire for gain				
2. Force was not needed when making arrest				
3. Inmate was not principal committor of crime (Was aider or abettor, only)				
4. Crime was not induced by racial prejudice				
5. NO victim was a female				
6. NO victim was under 12 years				
7. NO victim was under 16 years				
8. NO victim was over 70 years				
9. Number of victims did not exceed 1				
10. Number of victims did not exceed 2				
11. Number of victims did not exceed 5				
12. Victim was one of the participants in the crime				
13. Victim was related or known to inmate				
14. Victim provoked crime				
15. Inmate is not member of a gang				
16. NO violence was used - OR - Violence was used, but event was "crime of passion"				
17. NO victim was killed - OR - Victim was killed, but event was "crime of passion"				
18. NO victim was seriously injured - OR - Victim was seriously injured, but event was "crime of passion"				
19. NO gun was used - OR - Gun was used, but event was "crime of passion"				
20. NO knife or other weapon (except gun) was used - OR - Knife or other weapon (except gun) was used, but event was "crime of passion"				
21. NO explosives used nor property destroyed				
22. NO physical intimidation was used				
23. NO threats were used				
24. NO advance preparation for crime by inmate				

SCORES FOR PART 1 - A

Scores = Number of factors checked X Number at top of column	0		
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PART 1 - CRIMINAL RECORD (continued)

PART 3 - SOCIAL, ECONOMIC, AND ENVIRONMENTAL FACTORS

Marital Status	No. of Children and Ages	Religion	Education	Language(s) Spoken Fluently
Occupation	Time on Last Job	Weekly Income	Est. Value of Possessions	Spec. Interests, Skills

CLASSIFICATION FACTORS	0 TRUE	1 PARTLY TRUE	2 LARGELY NOT TRUE	3 NOT TRUE
1. Education/intelligence = high school or better				
2. Communicates well with others (Can make himself understood, readily understands what others say)				
3. Skilled/professional type, capable of gainful employment				
4. Has reasonably good employment history				
5. Residence, possessions, and way of life reflect desire for respectability and improvement in living standard				
6. Has close, meaningful family ties				
7. Has family/other depending upon him in some way				

SCORES FOR PART 3				
Scores = Number of factors checked X Number at top of column	0			

COMPUTATION OF SCORE

PART 1 - A Scores	0			
PART 1 - B Scores	0			
PART 2 Scores	0			
PART 3 Scores	0			
If prisoner participated in a crime which resulted in serious injury or death to a known law officer, enter a plus in column 3	—	—	—	
If prisoner participated in a crime which resulted in serious injury or death to other than a known law officer and was not a "crime of Passion" enter a plus in column 3	—	—	—	
If prisoner participated in previous prison uprising where violence was employed, enter a plus in column 3	—	—	—	
If "model" prisoner during previous confinement, enter a minus in column 3	—	—	—	
If former drug addict with temporary remission, or by manipulation, drug use currently undetected, enter a plus in column 3	—	—	—	
TOTAL SCORE FOR EACH COLUMN	0			

PRISONER ASSIGNMENT

Instructions: Add the total score for Column 0, 1, 2, and 3 together; insert that total in "Final Score" to the right; and check appropriate block below. <input type="checkbox"/> to Maximum Security <input type="checkbox"/> to Medium Security <input type="checkbox"/> to Minimum Security	FINAL SCORE
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PRISONER REFERRAL

<input type="checkbox"/> Mental problem - Refer to Mental Health Unit
<input type="checkbox"/> Physical ailment or problem - Refer to
<input type="checkbox"/> Drug problem - Refer to

remand population, is that remand inmates include all types, from those charged with parking ticket violations to those accused of murder. The security classification of the major offenders may also pose problems. Everything possible should be done to make the classification intelligent, fair, and prompt. The courts and the police can assist by providing the jail with as much information as possible. Social workers and trained volunteers should be used to help the admitting staff to make the best possible assessment of incoming inmates for classification purposes.

From some of the evidence that came before the Commission, one suspected that at times insufficient time, planning, and forethought had been given to the question of classification. Overcrowding of inmates and overworking of staff may well have been contributing factors. As a guide, an inmate classification worksheet developed in New York State is reproduced on pages 157-9.

It is suggested that, with the opening of two new detention centres to supplement the accommodation at the Toronto Jail, serious consideration be given to housing all youthful inmates, whether on remand or short-sentenced, in one jail or detention centre, or part thereof.

In the brief he submitted to the Commission, Walter McCullough indicated that classification of inmates was non-existent at the satellite camps. He further urged, and we agree, that young first offenders should, wherever possible, be segregated from recidivists, and this would include other young inmates.

Recommendation 32:

That careful steps be taken to ensure that inmates' personal property is not lost.

There was more than one instance during our hearings of an inmate's personal property being lost – particularly on transfer from another institution. For example, inmate Bass complained that he had been obliged to sign a receipt form before checking the contents of his personal effects envelope, and that somewhere along the line a ring had been lost. If there is a dispute about whether all personal property of an inmate is transferred with him, the matter should be investigated immediately by a senior officer. Time and again it has been shown that

people in custody attach great importance to their personal possessions. Any breach in a meticulous method of handling these possessions is liable to cause a confrontation.

At the Los Angeles County Jail an excellent system was in force for safeguarding inmates' personal property. This system went to the extent of stamping street clothes after they had been washed or dry-cleaned with identifying numbers visible only in ultraviolet light. This prevented clothing from being returned to the wrong inmate.

Recommendation 33:

That greater care be taken with reference to all jail records.

This recommendation stems from evidence given and observations made during our hearings.

Specifically, medical and nursing records should be complete, and they should be typed, legibly written, or hand printed. Because of changes in staff, a person who makes an entry may not be available later to interpret it. Some inmates return time after time to the jail. Whenever an inmate is transferred to or from the Toronto Jail, his complete medical file, or a photocopy of it, should accompany him in a sealed envelope in the care of the escorting officer.

During our hearings, a lack of proper entries in the corridor log came to light in the case of inmate Ramsay, held overnight in the old segregation cells. There was also, in the same case, some evidence of an entry having been changed. All entries should be legibly written in ink in books with consecutively numbered pages. Where a signature is not easily readable, the surname and initials should also be hand-printed. Corrections, when they have to be made, should also set out the name of the person making the correction and the time and date when the correction was made. (Considering the large volume of records of the Toronto Jail, covering a considerable period of time, that were required in connection with the allegations, the documentation made available to us was for the most part commendably complete.)

This recommendation is made to emphasize the importance of making accurate and legible records and of retaining them.

Recommendation 34:

That the television receiving system operating in the Toronto Jail be adapted to permit the showing of selected documentary and educational films.

This recommendation arose from a suggestion made to us by a perceptive young ex-inmate of the Toronto Jail during a visit to another institution. He commented upon his idleness while in the Toronto Jail awaiting transfer to a correctional centre. He wondered why some educational shorts could not be shown to inmates on television, to fill in time constructively at the jail.

There has been an improvement in the educational programming at the jail since the beginning of our Commission. The problems include the availability of suitable space for lectures, of correctional staff to supervise inmates and take them to and from lectures, and of volunteers for educational purposes, and the transient nature of the population.

Of particular help would be short films on vocational and basic school subjects, and films touching upon such life skills as finding a job and a place to live, shopping, and budgeting. Such films are readily available through various educational, training, military, and rehabilitative centres on this continent and in the United Kingdom.

Recommendation 35:

That, in deciding on the size of the Toronto Jail staff, due consideration be given to the depletion of staff by reason of illness, attendance at courses, and resignations.

There is a tendency to base the size of a jail's staff on the estimated number of inmates who should be housed there. This neglects the fact that the inmate count may on occasion exceed the accommodation facilities, and at the Toronto Jail this was the norm rather than the exception before the opening of Metropolitan Toronto East and Metropolitan Toronto West Detention Centres. Even now, these two centres, taken with the newer section of the Toronto Jail, leave hardly any gap between optimum accommodation and inmate count (see comments on

accommodation in the Observations).

When one adds to this the factors of illness, courses, and resignations, it is clear that any of these may result in staff overtime on a scale that is detrimental to both officer and inmate.

A shortfall in staff usually leads to less selectivity in recruiting. If there are 10 applicants for five positions that must be filled, half of the applicants will be hired. If there are 10 applicants for two positions, only one-fifth of the applicants need be hired.

An overworked staff means less job satisfaction, less efficiency, and a greater turnover.

Recommendation 36:

That realistic information be given to recruits, to reduce the turnover of staff.

Our discussions with staff indicated disillusionment on the part of some officers, who thought when they were hired that they were going to be used more in a rehabilitation role than a custodial one, indicating a misunderstanding of the function of the Toronto Jail, and resulting in wasteful training and a large turnover of staff during the first year of employment.

Recommendation 37:

That the Ministry maintain a central employment registry and consider recruitment on an area basis rather than on an institution basis.

C.O. 1 Edward Torrance is a case in point, with reference to the first part of this recommendation. He had worked for a time at the Mimico Correctional Centre before applying for employment at the Toronto Jail. When he was hired at the Toronto Jail, the jail did not know about his earlier employment in Mimico.

If recruiting were done for a larger geographical area, say, York, Peel, Halton, Simcoe, and Durham, it would be less expensive and would

bring in a bigger selection of recruits. In this day of automobile travel on through-access highways, recruiting concepts should allow for the fact that many people live in one locality and work in another.

The ultimate decision about a recruit should remain with the individual superintendents, but the area would keep a roster to which superintendents could have quick access.

Recommendation 38:

That opportunities be created for Toronto Jail staff to transfer to other correctional positions and to probation, parole, and social service work.

The idea was presented to us of a career umbrella embracing correctional services, parole, probation, some social services, and maybe even certain areas of police work, wherein there would be some common training, initially as well as at the middle management and senior management levels, and lateral opportunities from one discipline to another. It is hoped that this recommendation, if adopted, would make employment at the Toronto Jail more attractive and give the jail staff a broader collective background of experience. It would also increase the opportunities for promotion.

Recommendation 39:

That greater opportunity be given for women to work as correctional officers at all levels at the Toronto Jail.

Prior to the closing of the women's section of the Toronto Jail at the end of 1977, no female line officers were employed in the male section of the Toronto Jail. As of the beginning of 1978, four women experienced as correctional officers in the women's section of the jail were being retrained for duties in the male section.

We have been impressed with how well women have adapted to the role of line officer in other jails in Ontario and elsewhere. Their presence has had an ameliorating effect on the conduct and language of both inmates and male correctional officers. They have indeed proven them-

selves in the corridors. It is important that these women possess both maturity and objectivity. They cannot, of course, be used in search or shower areas, where their presence would cause embarrassment.

One early objection to the use of women as correctional officers in male corridors was that in a physical contest with an inmate they would be at a disadvantage. The use of walkie-talkie communication by officers within the jail has reduced the weight of this objection. Indeed, physical confrontation appears to be less likely with women than it is with male correctional officers. It is worth noting that women are employed more and more on police forces in roles similar to those of the men.

Finally, women should be given an opportunity for advancement to senior staff. At the Ontario Correctional Institute in Brampton a woman quite capably fills a senior position in that male facility, having among her duties that of overseeing correctional staff. There are also examples of women in the Ministry holding important senior staff appointments and training responsibilities.

Recommendation 40:

That most correctional officers recruited for employment at the Toronto Jail should be five to 10 years older than the inmates forming the largest segment of the jail population.

The suggestion was made by some of the Toronto Jail staff that the correctional officer should be five to 10 years older than the inmates with whom he comes into contact. He is then able to relate to the inmate and yet command his respect, and not be taken advantage of. We have modified this suggestion by saying that the majority of correctional officers recruited should be of such an age. Some capable correctional officers may be hired directly from the community colleges, in which case they will probably be younger than the optimum age. Others may be engaged as more mature and older men with valuable experience in other fields. It depends on the individuals recruited. It should be remembered that the average age of inmates remains fairly constant, whereas the average age of staff will increase inexorably unless there is a steady influx of young new officers.

A sprinkling of different attributes and characteristics is desirable in the line officers. Age is only one element to be considered, but it should not be overlooked in the general hiring process, for the above reasons.

Too many young line officers would mean a staff lacking the necessary collective authority. Conversely, if there were too many older officers, the necessary collective physical stamina would be lacking, and there would be too large a generation gap.

Recommendation 41:

That, in addition to in-depth board interviews of recruits there should be psychological testing of the recruits.

The lessons learned from having unsuitable line officers on staff may have prompted staff members of the Toronto Jail to make this suggestion to me. The psychological tests used by the Peel Regional Police Force and the Ontario Provincial Police to weed out undesirable candidates could be adapted by the Toronto Jail to meet its needs. Each jail does its own recruiting but a standard test for use in all provincial penal institutions might be the ultimate goal.

The psychological test should weed out the timid as well as the overly aggressive, not to mention the sadistic. But it should be in support of, and not a substitute for, board interviews in depth. The board should consist of men from the Superintendent group, senior officers, and line officers. The ultimate decision must be a management one, and final responsibility for hiring should therefore rest with the Superintendent.

To hire, train, and then dismiss unsuitable recruits is time-wasting, non-productive, and expensive.

Recommendation 42:

That central training teams visit correctional institutions including the Toronto Jail from time to time.

This should be over and above the regular training program conducted at the Toronto Jail and by the region. The function of visiting training teams would be to co-ordinate and standardize training throughout the Ministry, particularly with reference to the updating of attitudes to bring them into line with policy directives of the Ministry.

The visiting training teams would spare officers the need to take time

off from work and leave the jail to attend outside courses. The sessions with the visiting teams need not be lengthy; possibly half a day would be sufficient, if they were conducted at intervals of, say, three or six months. The visiting training teams should meet not only with the line officers but also separately with the senior officers. Less formal discussions might be held with members of the Superintendent group.

It would also be advisable to have short refresher courses for the social service workers, nurses, and other non-correctional personnel. This would help them to understand their roles in the jail and how best to co-operate with the correctional staff. Again, these courses need not be more than half a day in length, as long as they are held at reasonable intervals. There is no better way to get people to co-operate than to help them understand their roles and how they fit into the organization.

Recommendation 43:

That staff, particularly admitting staff, be trained to recognize drug symptoms as well as symptoms of intoxication and illness, and immediately notify medical and nursing staff.

Our hearings revealed some laxity in the recognition of drug symptoms in at least three cases – those of MacLean, Courts, and Jones. Rather than putting a person suffering from an overdose of drugs into a regular corridor, whenever there is the slightest suspicion of that or of any other kind of intoxication, the medical and nursing staff should be notified and appropriate treatment given. This will lessen the possibility of confrontations with line officers or other inmates in such cases.

Immediate notification of medical or nursing staff should be the standard procedure whenever illness is suspected in an inmate.

Recommendation 44:

That correctional staff be specifically instructed not to touch inmates except for the purpose of restraining them when necessary. Further, that demeaning or insulting language not be used by correctional staff against inmates.

Instances came to light of inmates resenting being touched by correctional staff. This led to some confrontations. At times, the touching was for the purpose of moving along a slow inmate, or when counting a line of inmates. Some people are sensitive about their "personal air space"; particularly in a custodial atmosphere, they consider any touching of their person by another to be an affront, and they strongly resent it.

Similarly, a correctional officer should not use demeaning and insulting language when addressing an inmate. Our hearings indicated that Dassy, for example, loudly referred to inmates as both "animals" and "skunks".

Recommendation 45:

That correctional officers be trained in special crisis intervention.

This matter has been dealt with in the Observations. It requires special understanding of how to handle a difficult and volatile inmate in order to defuse a situation rather than aggravate it. The training involves learning to recognize such a situation and to deal with it. If possible, the inmate should be isolated (not necessarily in segregation), and the trained correctional officer will know to listen to him, rather than talk to him. At the beginning, it may be wise to agree with whatever the inmate says about his problems, imagined or real, and sympathize with his aggrieved feeling. Gradually the officer trained in crisis intervention will take over and start to "think" for the inmate and calm him down. This kind of crisis intervention is on an individual basis, and is apart from training in connection with hostage-taking and mass rebellion, subjects that have been purposely omitted from this report. As far as possible, there should be one correctional officer trained in crisis intervention on each shift. This training should be extended eventually to as many officers as possible. It must, however, be appreciated that not all persons are suitable by temperament for this role.

Recommendation 46:

That all staff employed at the Toronto Jail be expected to conduct themselves in a professional manner.

Two incidents came to light during our hearings with reference to the above. One involved a social worker who publicly rebuked a correctional officer for his treatment of an inmate. Whether the rebuke was justified or not, it could have led to a dangerous situation. The proper course of action would have been for the social worker to make a brief written report as early as possible to the Superintendent or to the senior officer present in the jail.

The other incident was related by inmate Malayny and involved horse play on the part of correctional officers in throwing wads of wet toilet paper at each other. It is equally unfitting for officers to engage in horse play with inmates. Complaints were voiced during our hearings of officers kicking and striking inmates, presumably in jest.

Recommendation 47:

That there be better communication between shifts of line officers.

There were instances during the hearings of a lack of communication between shifts concerning inmates. This may have precipitated, or at least aggravated, the Bowins incident. Line officers coming on duty in a corridor should take an inmate count to satisfy themselves that it is the same as the count recorded by the previous shift. If it is not, then a senior officer should be notified.

Recommendation 48:

That information supplied to correctional officers be on a "need to know" basis.

There were allegations of abuse of information, and particularly with reference to sex offenders it was suggested that some correctional officers knew more than they should have known. Information was sometimes freely transmitted amongst staff when it should have been carefully restricted. One of the results of this was that line officers were sometimes in a position to leak such information to the inmate population.

On the other hand, it is important that information about the violent history and potentialities of certain inmates be given to all line officers who may come in contact with them.

Recommendation 49:

That correctional officers not engage in unauthorized forms of punishment.

Allegations were made during our hearings of correctional officers finding the actions for which certain inmates had been placed in custody (e.g., heinous sexual crimes) so repugnant that they engaged in physical or mental harassment of them. The duty of the correctional officer is a custodial one rather than a punitive one. The punishment should be left to the courts and, difficult as it may be for the correctional officer, he must adopt a professional approach and resist any inclination to punish an inmate. Segregation is itself a form of punishment and there should be no added physical or mental harassment as was practised at times, notably by Gary Dassy.

There were also incidents of inmates being taken into a broom closet for summary punishment for breach of jail rules. There were suggestions that the correctional officer concerned was taking a benevolent approach in that he was using this form of punishment as an alternative to segregation. However the practice could lead to misinterpretation and abuse. Breaches of the rules and regulations of the jail, where serious enough, should be punished by segregation. Where they are not serious, other approved forms of punishment should be considered. Some system of sanctions less severe than segregation or statutory remission should be used for minor offences. There were instances of segregation being used for rather minor infractions. This tends to weaken the sanction of segregation.

This Commission fully recognizes the need for segregation for some inmates and is not against the principle of using segregation for serious breaches of Toronto Jail rules and regulations. Where another form of punishment, such as additional work details, is used in lieu of segregation, such other punishment should be on the authority of a senior officer after giving both the line officer and the inmate an opportunity to be heard.

Recommendation 50:

That line officers, particularly those of the rank of C.O. 1, not attempt to deal directly with difficult inmates.

Senior staff should be notified as early as possible of serious confrontations with difficult inmates. The Frost incident is an example of a situation that might have been controlled in good time if a senior officer had been summoned promptly. Senior officers have more experience, and inmates recognize their authority and rank.

Recommendation 51:

That it should be incumbent upon all staff to familiarize themselves with Toronto Jail Standing Orders and all relevant Ministry directives. It would also be advisable that Ministry directives affecting the Toronto Jail, its officers, and its inmates be reproduced in Standing Orders, that Standing Orders be posted and that staff acknowledge having read them by signing an acknowledgement sheet.

During our hearings, it was indicated from time to time that some correctional officers were unfamiliar with the rules and regulations of the jail or with its Standing Orders. The Standing Orders having been consolidated during the course of our Commission, any unfamiliarity with them or with the regulations need no longer be tolerated.

Recommendation 52:

That the Superintendent or his assistant or deputy monitor from time to time the monthly reports on line officers prepared by senior staff, and that there be in the Toronto Jail written training tests for staff.

During our hearings we were impressed with an 80-question written test devised by the then Superintendent of the Sault Ste. Marie Jail, A. J. Dunbar (now Superintendent of the Metropolitan Toronto East Deten-

tion Centre). The purpose of the questionnaire was to test the knowledge of correctional officers and to assist them in areas where their knowledge was deficient. For the benefit of new staff taken on at the Toronto Jail from time to time, and even as a refresher for other staff members, we endorse this questionnaire system.

Recommendation 53:

That the Toronto Jail Superintendent or his designated deputy or assistant should review from time to time the assignment of duties to line correctional officers by senior officers.

There is, at times, a tendency to keep an individual line officer on the same type of duty because he has become experienced. Examples of this would be the keeping of an officer on search duties or in the shower area for lengthy periods of time. This may assist the efficiency of the jail, but is unfair to the line officer.

In some penal institutions in other jurisdictions a 60/40 assignment of duties is adopted. Thus, 60 per cent of the officers, on a seniority basis, are allowed to select their preferred work shift and type of duty. The remaining 40 per cent are assigned by the institution. The percentage need not be a 60/40 one. It should be at the discretion of the Superintendent, having in mind the advantages and disadvantages of certain shifts and types of duties.

Recommendation 54:

That the use of "sir" in addressing correctional staff be at the discretion of the Superintendent and that the practice be consistent throughout the jail.

This has been dealt with in some detail elsewhere in this report because it had been a factor in some incidents. The Commission does not consider that an issue should be made of such a matter. Nevertheless the use of "sir" should be at the discretion of the Superintendent, and, if

the Superintendent wishes this form of address to be used, inmates should be so notified upon admission to the jail.

Recommendation 55:

That physical exercise be compulsory for all inmates to the extent that they are capable and provided that they have not been excused by the jail medical staff.

Remand inmates, who are presumed innocent until proven guilty, are not required to perform any work duties in the jail, except for keeping their cells and the adjoining day areas clean and tidy. This should not excuse them from taking the exercise necessary to keep them fit and healthy.

The rationale of this recommendation, for both remand and sentenced inmates, has been considered, in part, in recommendation 3. It presupposes, of course, the existence of a structured exercise program in the jail.

Recommendation 56:

That inmate hygiene and certain aspects of medical attention be considered.

Dr. Richard Meen, formerly of the Ontario Correctional Institute, underlined in a discussion the advantage of inculcating in inmates good habits of personal hygiene. This is a form of preventive medicine and it can also lessen the workload of the medical staff. In this regard, regular opportunities to take showers and change clothes, particularly under-clothing, would assist.

The medical staff should be aware of the medication needs of inmates. The inmate can assist by arranging for a note signed by his family doctor where necessary. Such a note should indicate the type of medication the inmate has been receiving and the need for its continuation. This would reduce the likelihood of an inmate such as Vassell

claiming that it was necessary for him to smuggle into the jail drugs that had been prescribed by his doctor.

In dealing with inmates who require medical treatment and prescribed medication, the correctional and nursing staff should have the joint responsibility of knowing the location of such inmates at all times.

Recommendation 57:

That inmates entering the jail at times other than meal hours should be fed within a reasonable time.

There were instances of inmates being processed in the admitting area at unusual hours, often after transfer from outlying institutions. There were also cases of inmates not being fed while attending court and being returned to the jail after the regular meal hour.

We were impressed with the way this was handled in an English jail, where sandwiches were made available in the admitting area and a notice had been posted to the effect that as soon as inmates had been processed such food would be given to them. We were advised that this assisted in the smooth functioning of the admitting procedure. In one case where there was difficulty with an inmate on admission, he was told that he would not be fed until he complied with the necessary documentation. Within a very short time he ceased his resistance.

Aside from the humanitarian considerations, the suggested procedure might well be taken by the inmate as a sign of interest in his welfare and reduce his hostility, anxiety, and tension.

Recommendation 58:

That remand inmates be given credit for days worked in the jail while on remand.

This recommendation is based on the following syllogisms:

1. It is, generally speaking, a rule of Canadian criminal law that persons charged with criminal offences are presumed innocent until

proven guilty. Remand inmates have not yet been tried. Therefore they are presumed to be innocent.

2. Since remand inmates are presumed to be innocent, they cannot be compelled to work in a jail (except to keep their own quarters neat and clean). But idle hands tend to get into mischief. Therefore remand inmates who do not work tend to get into mischief.

There is no doubt that remand inmates, forming the largest portion of the Toronto Jail's population, pose some discipline problems because they cannot be put to work. A few will work voluntarily in order to combat the boredom of idleness. In other jurisdictions, we encountered arrangements whereby remand inmates are given the same work credits as sentenced inmates. The credits are applied to their sentences. If this were done at the Toronto Jail, remand inmates would receive, in addition to their statutory remission, a three-day reduction of sentence for every month worked. In addition, the inmate could, at the discretion of the Superintendent, earn a five-day advancement of his discharge. Such measures would reduce inmate-days of custody and thus help alleviate the accommodation problem.

Of course, if a remand inmate is found innocent he loses the credit for the work he has done. Perhaps a nominal monetary compensation for time worked (as is the case in correctional centres, as against jails and detention centres) should be given to remand inmates who are subsequently found innocent. I do not wish to prejudice remand inmates who are not admitted to bail by passing an opinion as to the likelihood of their being found innocent on the charge for which they are held. Certainly, if they were working at the jail pursuant to the above suggestion, this should not be used as evidence against them at a trial in any way that would imply their own thoughts about their guilt or innocence.

For a Grade I inmate, the incentive allowance at a correctional centre is \$4.00 a week (\$2.00 to spend and \$2.00 to save). For Grade IV inmates, the incentive allowance is \$8.00 a week. The gradation depends upon reports on the inmate's behaviour in the work assigned to him.

Recommendation 59:

That the Superintendent have power to impose loss of statutory remission in the case of remand inmates, as a discipline measure, this to take

effect only if the remand inmate is subsequently found guilty of the charge for which he is in custody.

This recommendation is intended to be complementary to the previous one. Segregation is not always an adequate deterrent for difficult inmates. In the case of a sentenced inmate who is guilty of a serious breach of jail rules and regulations, the Superintendent may also impose the penalty of loss of statutory remission up to 10 days, and in excess of 10 days with the concurrence of the Deputy Minister. Some remand inmates regard segregation as a badge of acceptance by their fellow inmates. If loss of statutory remission were added to the Superintendent's punishments for remand inmates, this might help him to control the behaviour of troublesome remand inmates. The penalty would only come into effect if and when the inmate was found guilty on the charge for which he was in custody. Nevertheless, it could act as a deterrent to a remand inmate who had not been admitted to bail and who would be thinking of the possibility that he might be found guilty.

Statutory remission is a reduction by 25 per cent of a sentence imposed by a court. As mentioned in the previous recommendation, the time spent in custody may be further reduced by earned remission at the rate of three days for a month worked and by a five-day terminal bonus. Loss of statutory remission, therefore, increases the number of days an inmate will have to serve.

Recommendation 60:

That consideration be given to non-alcoholic canteen privileges for inmates and to allowing them to keep snacks in their cells.

The prohibition against the above is well understood when inmates were kept in the old section of the jail, as snacks, particularly cheese and crackers, would attract rodents and vermin.

It was also indicated that cocoa as well as other snacks had been considered contraband and were seized. Inmates could be subjected to punishment for having them in their cells. The more sanitary conditions in the newer section of the jail probably make this prohibition unnecessary.

We noted that, in a number of other jails and institutions, such privileges were extended to inmates. We do not consider that allowing such

relief from the harshness of incarceration constitutes mollicoddling of inmates.

Vending machines owned by the Ministry could be used for this purpose on a non-profit or low-profit basis (covering expenses only).

Canteen privileges at end of day might also be used as a work or behaviour incentive.

Recommendation 61:

That inmate "request forms" be called for twice a day instead of only in the mornings and that greater latitude be exercised in receiving and acting upon such requests at other times.

The Jinks incident, and the Switzer incident involving C.O. 1 Glenn Bennett, revealed that the system in use was too rigid, or was interpreted too rigidly by many correctional officers. The inmate who is suffering from a severe toothache, or who suddenly becomes ill, or who urgently needs to communicate with his family or lawyer, should not be deprived of the necessary communication because the daily call for requests has already been made.

Requests were restricted to one period of the day to reduce the line officers' work load. A second call for "requests" at a different time would not greatly increase the work load, and it would probably have the effect of reducing it by eliminating some corridor problems. Of course, frivolous requests should be referred to senior staff and effectively dealt with by them. Out of fairness to the staff, it should be added that serious illness usually resulted in prompt communication with the medical or nursing staff. However, at times this communication was not quite as immediate as the inmate thought it should have been.

Recommendation 62:

That access to telephones be provided in the admitting area and that reasonable use of telephones be allowed at all times.

One of the greatest frustrations of inmates is the feeling of being isolated from family and friends, particularly when the inmate is concerned that

his people may be ignorant of his whereabouts or when there is concern about pressing family problems.

We were very much impressed by the system used in the admitting area of the Los Angeles County Jail. There were ample telephones, and tokens to work them were issued freely to anyone who did not have the necessary coins. In the same jail, inmates in custody were permitted to place telephone calls personally. There must, of course, be some control – say one three-minute call per day to a relative or friend and another similar call to a lawyer.

Allowing inmates to make such calls would do much to relieve their tension. It is much more satisfactory to speak directly to one's family (where this is desired) than to relay messages through a correctional officer, a social worker, or a volunteer. In Los Angeles County Jail, we were advised, such calls are not monitored. If there was concern about security at the Toronto Jail, there could be monitoring or taping of suspect calls, or monitoring on a spot-check basis. Such monitoring or taping should, however, be for security purposes only; the information should be privileged, and should not be used in any court as evidence with reference to any charge on which the accused was arrested.

In the Los Angeles County Jail, in addition to the telephones that were provided for inmates being admitted, there were closed telephone booths in a large hallway. We also observed a line-up of inmates who were guarded by jail staff while they waited to use the telephones. This required no more (and possibly fewer) officers than would have been involved in placing calls for inmates and reporting back to them. The Los Angeles County Jail system is clearly preferable to the one in use at the Toronto Jail.

Recommendation 63:

That notices, in large, easily readable print, be posted in the admitting area setting out the basic rules and regulations that govern inmates' conduct, behaviour, and duties, as well as their rights and privileges, and that notices also be posted in suitable places describing specific duties of inmates.

Such notices, which were prominently displayed in jails in England, would have clarified some of the situations at the Toronto Jail which, our hearings revealed, led to confrontations. Ignorance or professed

ignorance of rules was at times used by inmates as an excuse.

The Ministry publishes a small information booklet for inmates. Our inquiries indicated that this booklet was not always furnished to inmates. It should be mandatory to give a copy of the booklet to each incoming inmate. This should be in addition to the posting of notices, which should be in all the principal languages of the inmate population.

As for specific duties, these should also be posted in appropriate places. For example, duties affecting kitchen workers should be clearly displayed in the kitchen area, and the duties of corridor men and assistant corridor men should be posted in all day areas. Such notices might have forestalled the second confrontation involving inmate Malayny.

On the subject of kitchen workers, we are strongly against the taking of food out of the kitchen by inmate aides, either for their own benefit or for the benefit of anyone else. We found inexcusable the alleged practice of some correctional officers of asking kitchen help to obtain sandwiches and other food items for them. Vending machines similar to those mentioned in Recommendation 60 should also be available to officers.

Recommendation 64:

That whenever possible and when security reasons do not dictate otherwise inmates be given prior notice of transfer and the reasons for it.

There was the case of inmate Lumley, who was transferred out of the Sarnia jail and allegedly was not told where he was going or why. There was evidence that this caused him worry and tension and increased the problems of correctional officers. Proper communication can allay suspicion and mistrust, flatter the ego of the confidant, and obtain his greater co-operation. It also helps to prevent the spreading of false rumour and wild speculation.

Recommendation 65:

That correctional officers and social service counsellors of the Toronto Jail should meet at regular and frequent intervals.

It is important that the correctional staff and the social service staff work in harmony, each understanding the role played by the other at the Toronto Jail. There are many problems that can be solved by close liaison. There were instances during the hearings that indicated that there was at times some lack of understanding or communication between these two groups. Co-operation is necessary, not only for the welfare of the inmate, but also for the better operation of the jail. Training courses for each group should include an understanding of the function and role of the other.

Recommendation 66:

That the interviewing facilities for social service workers be improved.

In order to permit social service workers to have meaningful interviews with inmates, rooms should be set aside for this purpose. If these cannot be provided, there should at least be space where interviews may be conducted confidentially and without outside disturbances and distractions.

Recommendation 67:

That former inmates who have rehabilitated themselves be considered for employment as correctional officers.

The Ministry has long advocated that private industry hire ex-inmates. The Toronto Jail can, itself, set an example by hiring such persons, provided, of course, that they are suitable and that they meet the requirements. It is important that their rehabilitation be fully proven. Former inmates should not be taken on by way of tokenism. As in the case of women correctional officers working in male corridors, care must be taken that ex-inmates who are hired are well qualified, mature, and emotionally stable, so that they will be able to cope with any possible hostility from other correctional officers. They should have the strength of character to maintain discipline, and at the same time be

open to inmates' approaches for counselling and advice. Their experience as inmates and the lessons learned in rehabilitating and re-establishing themselves in the community could be of assistance in counselling inmates, since they might serve as models, particularly to young offenders. They might also be effective in dealing with difficult inmates. It is self-evident that former inmates with a history of violence or sex offences should not be hired as correctional officers.

Recommendation 68:

That proper supervision and control of line officers by senior officers be maintained.

Our hearings indicated how important it is that senior officers properly supervise and control line officers. Senior officers should also be able to assist line officers, where necessary, and guide them in the performance of their duties. The senior officer has the advantage of experience. He should also show an interest in the welfare of the line officer. During our hearings there were indications that at times too great a gap existed between the two groups.

Senior officers should also set an example in following the Ministry's directives. It is useless to train line officers and ask them to observe the Ministry's directives as to the handling and treatment of inmates if senior officers themselves pay no more than lip service or even, at times, question Ministry and jail policy.

Recommendation 69:

That during the probation period the new correctional officer be assigned to a particular senior officer who should be responsible for his training and assessment.

This recommendation was suggested by C.O. 2 David Cockburn. The senior officers assigned to such duties should be those who are in agreement with the Ministry's policies and directives.

Recommendation 70:

That the amenities for the staff of the Toronto Jail be improved.

The working conditions for the correctional staff at the Toronto Jail should be brought closer to those of the newer institutions. These improvements should include better lunch, lounge, and recreational facilities and better locker accommodation.

Recommendation 71:

That there be greater emphasis by the Ministry on the upkeep of old buildings such as the Toronto Jail.

The Ministry is to be commended for the design and furnishings of many new correctional institutions in the province. At the same time, it should not lose sight of the fact that older buildings, such as the Toronto Jail, must be kept in good repair and should approximate as closely as possible the standards of the new buildings. This is only just, bearing in mind the interests of the inmates who must be quartered in old, outdated buildings, as well as the interests of the correctional officers who must work there.

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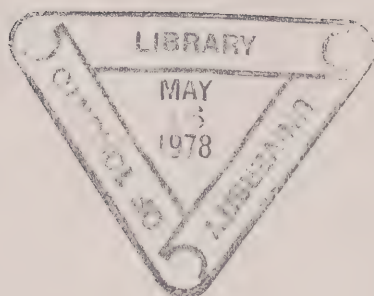
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His Honour Judge B. Barry Shapiro is the Senior Judge of the County Court of the Judicial District of Peel, which adjoins Metropolitan Toronto and encompasses the municipalities of Mississauga, Brampton, and Caledon. The district includes the Toronto International Airport. The court, whose judges are federally appointed and also serve as local judges of the High Court of Ontario, tries criminal and civil cases, both jury and non-jury, as well as dealing with Surrogate Court matters. Judge Shapiro has served as Chairman of the Peel Regional Board of Commissioners of Police since the force's inception in 1973. Before his appointment to the Bench in 1971, he was an active trial lawyer and a Bencher of the Law Society of Upper Canada. He is a past president of the Medico-Legal Society of Toronto. He served overseas during World War II, holds the rank of colonel in the Canadian Forces Reserve, and was one of the Aides-de-Camp to the Lieutenant-Governors of Ontario from 1958 to 1974. The Royal Commission on the Toronto Jail and Custodial Services has drawn on his experience in the disciplinary arts and brought to the fore his general concern for people and particularly for those convicted persons who have been sentenced to periods in custody. During the Commission's hearings, this interest was broadened to include correctional staff.



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